

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 8th December, 1999

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.106

DISTRIBUTION OF NATIONAL FUND FOR THE DISABLED

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

(a) how much money was raised for the National Fund for the Disabled held in 1990; and,

(b) how much was distributed in 1996 and 1997 per Province.

Mr. Deputy Speaker: Is there anyone from the Office of the President?

(Mr. Sunkuli entered the Chamber)

Hon. Members: Mr. Sunkuli, answer the Question!

Mr. Deputy Speaker: Mr. Sunkuli, there is a Question directed to the Office of the President.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, that particular Question is to be answered by hon. Nassir.

Mr. Deputy Speaker: Okay, we will come back to it later. Next Question!

Question 431

STOPPAGE OF PUBLIC SERVICES IN NYERI

Mr. Deputy Speaker: Is Mr. Mutahi not here? We will come back to his Question later. Mr. Michuki's Question!

Question No.727

SHOOTING OF MR. PETER IRUNGU

Mr. Deputy Speaker: Is Mr. Michuki also not here? We will come back to his Question later. Mr. Ayoki's Question!

Question No.555

PAYMENT OF RETIREMENT BENEFITS TO MR. OLUOCH

Mr. Deputy Speaker: Is Mr. Ayoki also not here? Next Question!

Question No.663

MEASURES TO SAVE TOM MBOYA LABOUR COLLEGE

Mr. Deputy Speaker: Is Prof. Anyang'-Nyong'o not here? Next Question!

Question No.659

RELEASE OF FUNDS TO A LONDON BANK BY KPC

Mr. Deputy Speaker: Is Mr. Muite also not here?

Mr. Sifuna: He has gone "underground!"

Mr Deputy Speaker: Order, Mr. Sifuna! Next Question!

Question No.739

PROVISION OF WATER TO MASINGA

Mr. Deputy Speaker: Is Col. Kiluta not here? Next Question!

Question No.723

REPAIR OF KOI-KAGWE ROAD

Mr. Deputy Speaker: Is Mr. Gitonga not here?

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. Considering the general absence of hon. Members on Wednesday mornings, could the Chair consider directing the House Business Committee to change the Hours of Meeting to 9.30 a.m.?

Hon. Members: No!

Mr. Deputy Speaker: Order! Hon. Members, if you have the Standing Orders in your hands, you will see what it says about hours of meeting. It is not the Chair or the House Business Committee to schedule the hours of business.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. The problem that we are facing is that the Order Paper does not come out in good time so that we know who has a Question to ask on Wednesday mornings. I think the Chair should direct---

Mr. Deputy Speaker: Order, Mr. Obwocha! First of all, this Order Paper came out yesterday evening. In the second place, hon. Members are supposed to come to Parliament. Hon. Dr. Ochuodho, you should familiarize yourself with the Standing Order No.17; hours of meeting, and see what it says. I sympathise with hon. Members, because yesterday and this morning, there was heavy rain. But last week, we had the same problem in the House.

Mr. Sifuna's Question for the second time!

Question No.106

DISTRIBUTION OF NATIONAL FUND FOR THE DISABLED

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

(a) how much money was raised for the National Fund for the Disabled held in 1997; and,

(a) how much was distributed to the disabled in 1996 and 1997 per Province.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, first, let me apologise for coming late. I beg to reply.

(a) I am not aware of a harambee for the disabled held in 1990. However, I am aware of a harambee for the National Fund for the Disabled which was held in 1989 where a total of Kshs70,194,621.60 was raised.

(b) The Financial Calender for the Fund runs from 1st July, to 30th June of the following year. The funds were distributed as follows via districts.

In the financial year 1995/1996, the following amounts were distributed:

Province	Amount in Kshs
Central Province -	1,118,395
Coast	2,016,015

Eastern	-	1,655,780
Nairobi	-	789,570
North Eastern	-	674,615
Nyanza	-	1,300,865
Rift-Valley	-	2,402,500
Western	-	976,625
Total		<u>11,134,675</u>

In 1996/97 financial year, the following amounts were distributed:

Province		Amount in Kshs
Central	-	1,958,740
Coast	-	1,359,955
Eastern	-	3,033,375
Nairobi	-	1,573,195
North Eastern	-	855,575
Nyanza	-	2,094,730
Rift-Valley	-	3,743,400
Western	-	1,691,210
Total		<u>16,310,180</u>

In the 1997/98 financial year, the following amounts were distributed:

Province		Amount in Kshs
Central	-	2,600,670
Coast	-	2,353,560
Eastern	-	2,937,980
Nairobi	-	2,529,040
North Eastern	-	795,000
Nyanza	-	2,296,210
Rift-Valley	-	4,120,040
Western	-	1,757,790
Total		<u>18,796,290</u>

Mr. Sifuna: Mr. Deputy Speaker, Sir, arising from the Minister's reply, could he tell us what criteria was used when distributing these funds? We can notice that other provinces were getting more than others.

Maj. Madoka: Mr. Deputy Speaker, Sir, the criteria used is dependent on the needs. It is not distributed equally by provinces. It depends on the needs as presented to the Committee.

Mr. Sifuna: Mr. Deputy Speaker, Sir, the needs of the disabled persons are almost uniform. The Minister says that in 1989, Kshs70 million was raised. How much interest has been earned on this money since that time, and where is it invested?

Maj. Madoka: Mr. Deputy Speaker, Sir, after raising the money, it was invested in buying two properties which are generating income, whereas the remaining amount is earning interest. That is why they are able to pay these amounts of money.

Dr. Kulundu: Mr. Deputy Speaker, Sir, given the fact that immunization coverage in Western and Nyanza provinces is generally lower than Central, Rift-Valley and other provinces, and therefore, there would be more polio cases in the western part of the country than the rest of the country, how does the Minister explain the apparently low figures allocated to both Nyanza and Western provinces?

Maj. Madoka: Mr. Deputy Speaker, Sir, that assumption by the hon. Member needs to be backed by facts, then I will be able to answer appropriately.

Mr. Ndicho: Mr. Deputy Speaker, Sir, in 1970, Kshs70 million was a lot of money that we expected to have an impact in assisting the disabled in this country. Could the Minister agree that despite this money having been raised in 1989, we still have many disabled people in all the provinces that he has mentioned and since that time, there has been no impact at all on the disabled persons? In any case, they have increased in numbers in the major towns of this

country.

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not think that general statement by the hon. Member is fair. I think many of the disabled people have benefitted. So, there has been some impact. I do not know what sort of impact he actually means; whether it is by reduction of the numbers of the disabled or whether it is the individual being able to become self employed. We have distributed money to individuals to help them do some businesses.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to evade answering my question? I am talking about the Kshs70 million which was raised in 1989, and was expected to have had an impact on the disabled persons. For example, every disabled person would by now have been given some business to do, somewhere or given a wheel chair.

Maj. Madoka: Mr. Deputy Speaker, Sir, I do not think I have evaded answering his question. I said that it has an impact in helping the disabled.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, could the Minister tell us the current balance in this account and why it is not being utilised while we know that the demand outstrips the supply?

Maj. Madoka: Mr. Deputy Speaker, Sir, I cannot give the exact amount at the moment. I would like to inform hon. Members that this is one of the best managed institutions in this country. They have proper audited accounts and everything can be accounted for. The distribution is done very transparently.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. I asked a very specific question, and if the Minister does not have the answer now, Kenyans need to know. Could he undertake to bring the answer to the House?

Maj. Madoka: Mr. Deputy Speaker, Sir, that would not be a problem. I will bring the figures.

Mr. Obwocha: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to fail to answer my question? We know that, that fund has not invested those funds that were collected wisely. Could the Minister later give a list of where this money has been invested? It is important, because these are disabled people and we must protect them at any cost.

Maj. Madoka: Mr. Deputy Speaker, Sir, I will do this next week.

Mr. Deputy Speaker: Mr. Minister, bring it on Tuesday, next week.

Mr. Anyona: Mr. Deputy Speaker, Sir, could the Minister clarify whether this money was being given to individual cases of disabled people, or whether it was being given to collective projects of the disabled? In either case, I, for one, have not seen any project in Kitutu Masaba Constituency. Could you give us the names and projects that have been supported in Nyamira District which has three constituencies?

Maj. Madoka: Mr. Deputy Speaker, Sir, there is no problem in doing that. I can indicate, for example, those funds which are given to specific projects or schools and so on, and then monies allocated to individuals to buy equipment. For example, in Central Province institutions of the disabled were given Kshs720,000 and individuals were given Kshs329,395.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I have nothing against Central Province, but I asked a specific question about Nyamira District. So, give us the figure that was given to Nyamira District and some examples, and then we can understand what is going on in the rest of the country.

Maj. Madoka: Mr. Deputy Speaker, Sir, I said can table that information, but I was just giving an example. Nyamira District is not a province.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House about Central Province? We know that in Central Province, we have the biggest number of disabled people's institutions like the Thika School for the Disabled, Thika School for the Blind and a high school for the blind and the disabled. Yet, the Thika School for the Blind is now without power. Its power has been disconnected because of non-payment of a bill of Kshs500,000. So, is the Minister not misleading the House about this amount of money having been allocated to Central province?

Maj. Madoka: Mr. Deputy Speaker, Sir, I am not misleading the House, but I am giving facts.

Mr. Sifuna: Mr. Deputy Speaker, Sir, the Minister has promised to bring the list next week. Could he also, if not next week now, bring a list of those individuals, particularly from Western Province, who were given all this money? Some of [Mr. Sifuna]

these figures might "look fake". We want to know who these people were and how much each person got.

Maj. Madoka: Mr. Deputy Speaker, Sir, I said I will table that list next week.

Question No.431

STOPPAGE OF PUBLIC SERVICES IN NYERI

Mr. Deputy Speaker: Mr. Mutahi's Question for the second time. Since Mr. Mutahi is still not here, his Question is dropped.

(Question dropped)

Question No.727

SHOOTING OF MR. PETER IRUNGU

Mr. Deputy Speaker: Mr. Michuki's Question for the second time! He is still not here and the Question is dropped.

(Question dropped)

Question No.555

PAYMENT OF RETIREMENT BENEFITS TO MR. OLUOCH

Mr. Ayoki asked the Minister for Education:-

- (a) whether he is aware that Mr. Hesbon Odipo, Teachers Service Commission (TSC) No.26835, who retired on 31st December, 1997 has not been paid his retirement benefits; and,
- (b) if he could instruct the TSC to pay Mr. Odipo his dues without further delay.

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

(a) The delay in processing Mr. Hesbon Odipo Oluoch's pension, who retired with effect from 1st January, 1998, is due to the fact that he has not yet submitted a Tax Clearance Certificate, P1 and P2 Certificates as requested.

(b) The TSC will process Mr. Oluoch's pension upon receipt of these documents and forward the same to the Director of Pensions for necessary action.

Mr. Ayoki: Mr. Deputy Speaker, Sir, while I thank the Assistant Minister for giving the answer, I would like to remind him that the P1 and P2 Certificates were in Mr. Oluoch's file. These certificates were filed by the TSC. As concerns the Tax Clearance Certificate, he had submitted it. Every time he went there, the story was that his file was missing. His file has been missing since 1997. Will the Assistant Minister do something to make sure that the next time Mr. Oluoch goes there, the file will be available?

Mr. Awori: Mr. Deputy Speaker, Sir, I am sure that Mr. Oluoch has not given the hon. Member the correct information. The file has never been missing. It is right here and I brought it from the TSC.

(Mr. Awori showed the file)

Mr. Deputy Speaker: Is that part of your answer?

Mr. Awori: Mr. Deputy Speaker, Sir, I am simply trying to substantiate the fact---

Mr. Deputy Speaker: Order! But you cannot bring to the Dispatch Box documents that you cannot table. You cannot table that file!

Mr. Awori: Mr. Deputy Speaker, Sir, I will not table the file and I have removed it from the Dispatch Box.

Mr. Kajwang': Mr. Deputy Speaker, Sir, when a teacher is employed, usually the TSC must demand his certificates. When he is promoted, it demands the certificates of promotion. Why is it that when somebody retires, that is when he is required to give his certificates? Is the reason to frustrate them in their old age?

Mr. Awori: Mr. Deputy Speaker, Sir, when a teacher is promoted, the Ministry of Education simply writes to the TSC and confirms that such and such a teacher has been promoted to such and such a grade. That is good enough so far as the TSC is concerned for the payment of salaries. However, the pensions people insist that they must see the certificate itself because it will have a bearing on the amount of pension that they will pay to that teacher.

Mr. Ndicho: Mr. Deputy Speaker, incidents of retirement benefits for teachers not being paid in time are so prevalent in this country. To avoid this delay, can the Assistant Minister tell this House whether the Ministry has any plan to computerise this department, so that once a teacher retires, he can be paid his benefits the next day as he goes home to his wife and children?

Mr. Awori: Mr. Deputy Speaker, Sir, almost all Government Departments will be computerised as soon as

possible. The Government is computerising its Departments in stages. As we know, for instance, the Judicial and the Customs and Excise Departments are being computerised at the moment. The TSC will soon be computerised. I cannot tell you whether it will be done tomorrow or the day after, but it will be as soon as possible.

Dr. Kulundu: Mr. Deputy Speaker, Sir, what plans does the Ministry have to decentralise TSC to the Provinces?

Mr. Awori: Mr. Deputy Speaker, Sir, indeed, there are plans to decentralise TSC as soon as possible.

Mr. Ayoki: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for having found the file. I would ask him to make sure that the next time Mr. Oluoch goes to the TSC offices to present his papers, the file should be available. This case of Mr. Oluoch is just one of the many cases of pensioners who have been frustrated by the TSC and the Ministry of Finance. I want to urge the Assistant Minister this time to make sure---

Mr. Deputy Speaker: What is your question?

Mr. Ayoki: Mr. Deputy Speaker, Sir, will the Assistant Minister will make sure that next time Mr. Oluoch goes to the TSC offices the file will be available?

Mr. Awori: Mr. Deputy Speaker, Sir, the file has never gone missing at the TSC offices! The problem has simply been that the P1, P2 and the Tax Clearance Certificates were not in the file. That was the only reason. It would help a great deal to facilitate the processing of pensions if the teachers themselves could, every time they are promoted, make sure that copies of their certificates are put in their files.

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o's Question for the second time.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I apologise on behalf of prof. Anyang'-Nyong'o for coming late.

Question No.663

MEASURES TO SAVE TOM MBOYA LABOUR COLLEGE

Dr. Ochuodho, on behalf of **Prof. Anyang'-Nyong'o,** asked the Minister for Labour and Human Resource Development what steps he is taking to save Tom Mboya Labour College which is on the verge of collapse.

Mr. Deputy Speaker: Dr. Chem Ochuodho, you were here when I called out that Question for the first time!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, he had---

Mr. Deputy Speaker: Lateness is not an excuse.

Dr. Ochuodho: I apologise for my lateness.

Mr. Deputy Speaker: Is anyone here from the Ministry of Labour and Human Resource Development! Question deferred to Tuesday, next week.

(Question deferred)

Question No.659

RELEASE OF FUNDS TO A LONDON
BANK BY THE KPC

Mr. Gitonga, on behalf of **Mr. Muite,** asked the Minister for Energy:-

(a) whether he is aware that, Messrs. Kenya Pipeline Company (KPC), paid a sum of US\$3.5 million in the month of June, 1999, to an account held by a Government official in a Bank in London, United Kingdom (UK); and,

(b) for what services, or in respect of what, this payment was made.

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

(a) I am not aware.

(b) The only major payment that the KPC made in the UK during the month of June, 1999, amounted to US\$321,202.85, through account number 80430420 at Barclays Bank, Newcastle City Group, Newcastle NE14QL. The payment was made on 25th of June, 1999, to Messrs. Pipeline Integrity International Limited of the UK, for cleaning and inspection of the 14-inch Mombasa-Nairobi Oil Pipeline, in accordance with the contract signed between the two firms.

Mr. Gitonga: Mr. Deputy Speaker, Sir, arising from the Assistant Minister's reply, could he inform the House if, in the course of the year, any money was paid to any Kenyan Government official in London?

Mr. Sasura: Mr. Deputy Speaker, Sir, no such payment was made to an individual.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, could the Assistant Minister deny or confirm whether an amount totalling over Kshs3 million, was paid by the KPC to any foreign bank in the past three years?

Mr. Sasura: Mr. Deputy Speaker, Sir, with respect to the Question, the specified date was June, 1999. The only payments which were paid in June, 1999 to foreign banks were four. The payments were for Export Development Corporation, Export Development Co-operation, Cables Metrology and Pipeline Integrity. No individual payment was made.

Mr. Obwocha: Mr. Deputy Speaker, Sir, on the Kshs22 million that was paid to the Pipeline Integrity of the UK for cleaning the pipeline, why could this not be done by any other local company? Do we have to get people from outside to clean our pipes?

Mr. Sasura: Mr. Deputy Speaker, Sir, the cleaning of the 14-inch Mombasa-Nairobi Pipeline was a specialised equipment job. There was a competitive international bidding and none of the local companies bided.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. I asked a very specific question. Could the Assistant Minister confirm or deny if, over the past three years, the KPC did not pay Kshs3.5 million to any Government official in a foreign account?

Mr. Sasura: Mr. Deputy Speaker, Sir, I had replied to that earlier. According to the Question which was put here, it asked for the payments which were made in June, 1999. As for the question by Dr. Ochuodho about payments made three years ago, I cannot confirm. But from June, 1999, no payment was made to any individual.

Mr. Gitonga: Mr. Deputy Speaker, Sir, the question by Dr. Ochuodho was very specific. Could the Assistant Minister confirm or deny if any money was paid to any Kenyan official in a foreign account?

Mr. Sasura: Mr. Deputy Speaker, Sir, I cannot confirm at this stage, about payments which were done three years ago. I have answered a specific Question as asked by hon. Muita, about payments made in June, 1999.

Mr. Ojode: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House how many times the KPC paid the Kshs22 million to the Pipeline Integrity Company of the UK for services rendered?

Mr. Sasura: Mr. Deputy Speaker, Sir, the payment of Kshs23 million to the Pipeline Integrity for cleaning was paid only once, in June, 1999.

Mr. Osundwa: Mr. Deputy Speaker, Sir, the Assistant Minister has said that before this firm was identified, there was international competitive bidding. Could he tell this House the other international firms which took part in the bidding?

Mr. Sasura: Mr. Deputy Speaker, Sir, I do not have the names of the firms here. But as far as I know, there were more than four firms that bided.

Mr. Gitonga: Mr. Deputy Speaker, Sir, since the Assistant Minister cannot confirm or deny that this money was paid, is this an admission that the money was paid? Could he undertake to investigate?

Mr. Sasura: Mr. Deputy Speaker, Sir, I think I have said very clearly that no money was paid to any individual. The only money that was paid was to various companies in Canada and the Netherlands. The only payment that was made to the UK was for the purposes of cleaning the Mombasa-Nairobi pipeline. So, I have not confirmed any individual payment.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, since the Assistant Minister acknowledges that he cannot authoritatively say that over the past three years no money was paid to a Government official, could he undertake to investigate and bring a reply to the House?

Mr. Sasura: Mr. Deputy Speaker, Sir, I think I have satisfactorily answered this Question. That is a totally different question. If he could put another Question, I will definitely bring a very specific answer.

Mr. Gitonga: Mr. Deputy Speaker, Sir, the Assistant Minister has already admitted that he cannot confirm. If that is the case, could he undertake to investigate and bring the answer to this House?

Mr. Sasura: Mr. Deputy Speaker, Sir, I have not admitted anything! I have just answered the Question as asked! I do not know what the hon. Member is saying that, I have admitted!

Question No.739

PROVISION OF WATER TO MASINGA

Mr. Deputy Speaker: Is Col. Kiluta still not here? His Question is dropped. Let us move on to the next Question!

(Question dropped)

Mr. Gitonga: Mr. Deputy Speaker, Sir, before I ask my Question, let me point out that the name of Koi-Kagwe Road has been misspelt. The correct name is Moi-Kagwe Road.

Question No.723

REPAIR OF MOI-KAGWE ROAD

Mr. Gitonga asked the Minister for Roads and Public Works when he will carry out the necessary repairs to make the Moi-Kagwe Road passable.

The Assistant Minister for Roads and Public Works (Mr. Criticos): Mr. Deputy Speaker, Sir, I beg to reply.

As the hon. Member has pointed out, my answer would have been:-

My Ministry is not aware of any classified road by the name of Koi-Kagwe Road in Kiambu. That is what is in the Order Paper. I need the guidance of the Chair on this matter. The Question specifically mentions Koi-Kagwe Road. The hon. Member has corrected it, but I was told to bring an answer concerning the Koi-Kagwe Road!

However, I do have a supplementary reply for hon. Gitonga. We even do not have the Moi-Kagwe Road. What we have are the following roads: Kagwe-Gacwere, Mahindu-Karaita, Kagwe-Nyanduma, Kagwe-Kaga and Kagwe-Nyaga.

Mr. Gitonga: Mr. Deputy Speaker, Sir, before the Assistant Minister answered this Question, I had explained that the road is Moi-Kagwe Road. It is not Koi-Kagwe Road. I saw this misprinted Question this morning.

Mr. Criticos: Mr. Deputy Speaker, Sir, I was asked to produce an answer concerning this road, which does not exist. That is what I have produced in this honourable House this morning. However, I have said that, even on the Moi-Kagwe Road, I am not aware of which particular road he is talking about.

Mr. Deputy Speaker: I think that under such circumstances, I will defer this Question to Wednesday next week.

Mr. Gitonga: On a point of order, Mr. Deputy Speaker, Sir. Will Parliament still be on?

Mr. Deputy Speaker: You are anticipating a decision of the House! But I have already deferred that Question.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

SEXUAL ASSAULT ON PREGNANT PATIENT
BY MEDICAL ASSISTANT

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

(a) Is the Minister aware that a Mr. Fred Wanyama, a Medical Assistant, sexually assaulted a pregnant patient while examining her at Mumias Sugar Company Medical Centre on 27th October, 1999?

(b) What action has the Minister taken against this officer?

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

Mr. Mutahi: On a point of order, Mr. Deputy Speaker, Sir. First of all, I would like to apologise for coming late. I thought you were going to call for Questions which were not asked for the First Time to be asked for the Second Time?

Mr. Deputy Speaker: I have already done that! Proceed, Dr. Wako!

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

(a) I am aware of the alleged sexual assault.

(b) Investigation has been launched into the alleged sexual assault and action will be taken should the clinical officer be found to have breached the professional code of ethics.

Mr. Osundwa: Mr. Deputy Speaker, Sir, arising from the reply by the Assistant Minister, this incident took place on 27th October, 1999 and I am surprised that the Assistant Minister is saying investigations are still going on. On the same day, members of the public assisted this lady to go and make a report at the Mumias Police Station. This patient was examined the same day at Lukoye Nursing Home. I wonder why, six months after, the Assistant Minister is telling this House that investigations are still going on. The results were out the same day! Can he tell us the position of

the Government on this matter?

Dr. Wako: Mr. Deputy Speaker, Sir, it is true that the patient is purported to have been examined on the same day at Lumina Nursing and Maternity Home. Actually, the facts we have are that the patient went there with her husband and not with members of the public. Secondly, although we have the results from that nursing home, the results from Bungoma District Hospital is showing negative. Therefore, we are actually going to carry out a professional investigation.

Mr. Anyona: Mr. Deputy Speaker, Sir, I thought the matter of sexual assault, leave alone any other type of assault, is a serious criminal matter. Can we be told what criminal action is being taken against this man?

Dr. Wako: Mr. Deputy Speaker, Sir, the criminal aspect should have gone to the Office of the President. Secondly, as far as investigations are concerned---

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. He has admitted that this matter falls under the Office of the President. Would it be in order that this Question is referred to the Office of the President? All we want to know is what criminal action has been taken!

Dr. Wako: Mr. Deputy Speaker, Sir, I wish the hon. Member had let me complete what I was saying. As I have said before, we want to conduct a professional investigation to find out whether there was any ethical misconduct which was done by the clinical officer. As far as the police investigations are concerned, we are aware that the clinical officer was charged and later released.

Dr. Kulundu: Mr. Deputy Speaker, Sir, for the benefit of the Assistant Minister, Bungoma District Hospital is much further away from Mumias than Kakamega Provincial General Hospital. So, if there are any professional investigations to be done, it had better be dealt with by the Provincial Hospital rather than a District Hospital. Out of what was done at Lumina Nursing and Maternity Home, what preliminary findings do you have?

Dr. Wako: Mr. Deputy Speaker, Sir, the preliminary findings we have are that the patient, Mrs. Millicent Akinyi Okoth, was examined and urine analysis was done at Lumina Nursing and Maternity Home. There was also spamatozoa scheme done. But when investigations were done at Bungoma District Hospital two days later, this was found to be negative. So, there are two conflicting results from the two institutions.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Assistant Minister knows very well that in a rape case, if an examination is done six hours after the alleged act, no spamatozoa will be traced. In any case, how would you determine that the spamatozoa seen in this lady was from Mr. Fred Wanyama and not somebody else?

Dr. Wako: Mr. Deputy Speaker, Sir, actually, this is the cause of the problem. The results from Lumina Nursing and Maternity Home is dated 28th, it does not have any stamp and it was done a day later after the alleged act. So, we do not know whether the spamatozoa is from the husband or from the clinical officer. So, we want to carry out a professional investigation to find out why the clinical officer could have examined the female patient without the presence of a nurse. We also want to establish whether there was any professional misconduct committed.

Mr. Osundwa: Mr. Deputy Speaker, Sir, the Assistant Minister has admitted here that this rapist, Mr. Fred Wanyama, has been released by the police and yet, the Assistant Minister has confirmed in his answer that when this patient was examined, it is true that some spamatozoa was found. Can he tell us why this man was released and yet he is saying investigations are going on? Which is which?

Dr. Wako: Mr. Deputy Speaker, Sir, I still insist that we cannot call Mr. Wanyama a rapist because it is an allegation as far as we are concerned. The fact is that Mrs. Millicent Akinyi was examined at Lumina Nursing and Maternity Home a day later and there is number plate for sperms from the husband or from the clinical officer. So, all we need to investigate is whether there was any professional misconduct committed by Mr. Wanyama so that we can take action.

DISCIPLINARY PROCEEDINGS
AGAINST NAIROBI HOSPITAL

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

(a) Is the Minister aware that a child of a member of the subordinate staff at Nairobi Hospital was put off oxygen support and died on transfer to Kenyatta National Hospital?

(b) Is the Minister satisfied that Nairobi Hospital took the right action especially to a member of staff?

(c) What disciplinary action will the Minister take against the hospital administration as a warning other health institutions?

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, I would like to seek the indulgence of the Chair that this Question be deferred because the Minister who was supposed to come and answer it is

not in.

Mr. Deputy Speaker: But this Question is directed to the Ministry of Medical Services?

The Assistant Minister for Health (Dr. Wako): Yes, Mr. Deputy Speaker, Sir, but the Minister was supposed to come and answer that Question.

Mr. Deputy Speaker: But you are the Assistant Minister?

The Assistant Minister for Health (Dr. Wako): Yes, I am, but was supposed to answer the Question by Mr. Osundwa. I do not have the answer for that Question with me.

Mr. Munyao: Mr. Deputy Speaker, Sir, you can see the contradiction from the Assistant Minister. This matter concerns a dead child. Can we know when this answer will be provided?

The Assistant Minister for Health (Dr. Wako): Mr. Deputy Speaker, Sir, the Question can be answered on Thursday afternoon.

Mr. Deputy Speaker: That is okay. The Question is, therefore, deferred.

(Question deferred)

NON-PAYMENT OF ALLOWANCES TO
TANA RIVER COUNCILLORS

Mr. Anyona: Mr. Deputy Speaker, Sir, in the first place, I have not received a written answer. Nevertheless, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that some councillors of Tana River County Council, including the Kenya Social Congress (KSC) Councillor for Kamaguru Electoral Area, Councillor Ahmed Abdi Baridi Sheikh, have not been paid their allowances and dues for the last two years?

(b) How much money does the Council owe Councillor Ahmed Abdi Baridi Sheikh and his colleagues in allowances, dues and interest?

(c) Will the Minister ensure that the money is paid with interest to save the councillors from financial and social embarrassment?

The Assistant Minister for Local Government (Mr. Affey): Mr. Deputy Speaker, Sir, I beg to reply.

Mr. Deputy Speaker: Where is the written reply?

The Assistant Minister for Local Government (Mr. Affey): Mr. Deputy Speaker, Sir, I guess it should have reached the Member. I have the reply myself and, ordinarily, it is sent by the Ministry.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I did check with the Clerk's Office and they told me they did not have an answer. So, can he tell us where the answer is?

The Assistant Minister for Local Government (Mr. Affey): Mr. Deputy Speaker, Sir, I do apologise to the hon. Member if, indeed, he has not received the answer, and to the House in general. I beg to reply.

(a) Yes, I am aware.

(b) The County Council of Tana River owes its councillors a sum of Kshs4,077,663-50 as allowances as at 31st October, 1999.

(c) The councillors' allowances are paid on the basis of the respective councils' ability to pay. In the case of Tana River County Council, the councillors dues will be paid if and when the revenue collection is improved. As for the payments of arrears with interest, I do not think there is any legal provision to compel the Council to do so.

Mr. Anyona: Mr. Deputy Speaker, Sir, it is a very sad affair for the Ministry of Local Government to tell Parliament that councillors have not been paid for two years. How do they do their work? However, I would specifically like to know how much the Council owes a councillor there particularly?

Mr. Affey: Mr. Deputy Speaker, Sir, I know that the Member is very much concerned about this particular councillor there. The Councillor, Ahmed Abdi Baridi Sheikh has outstanding allowances as at 31st October, 1999 amounting to Kshs111,003-75. This amount excludes Kshs34,500 which has already been paid to him early this year.

Mr. Anyona: Mr. Deputy Speaker, Sir, can the Assistant Minister now tell us what they are going to do to make sure that these councillors are paid? How can they work without being paid?

Mr. Affey: Mr. Deputy Speaker, Sir, as a Ministry, I think we have answered this question of councillors' allowances very many times. You know very well, as the Members of Parliament do, that it is not the responsibility of the central Government essentially to meet the allowances of specific councillors in specific councils. It is the responsibility of the particular council to meet the obligation of its councillors. That is why we are encouraging all the councils in this country to improve the revenue base of their councils.

Mr. Katuku: Mr. Deputy Speaker, Sir, this issue of councillors' allowances has been in this House many

times as the Assistant Minister says. Maybe he is not aware that the councillors had a meeting the other day and they are planning to come and camp here to force the Ministry to bring a Bill here to amend the Local Authorities Act to give the local authorities powers so that they can regulate their salaries, allowances and dues. So, in view of this fact, can he undertake to bring this Act here and we amend it?

Mr. Affey: Mr. Deputy Speaker, Sir, I do not think I can be able to give that undertaking. However, I would like to make it known to the Members that, in fact, we even went ahead and encouraged specific councils, that if a council can indeed collect enough revenue, we could even possibly consider raising the allowances of that particular council. This is because in most of these councils, there is so much mismanagement emanating from both the councillors and the chief officers that they cannot be able to meet the basic obligations of the councils.

Mr. Munyao: Mr. Deputy Speaker, Sir, we still do not think the Assistant Minister is taking this matter seriously. The issue of councillors' salaries and allowances which is a preserve of the local and central Governments is creating a lot of bitterness, particularly when this Government goes on collecting their allowances and salaries and the councillors cannot be paid. Can he take this matter very seriously and tell us when he is going to sort it out and not leave this particular issue to particular councils? This is because some of them cannot and will not pay, like Makueni County Council, and several others?

Mr. Affey: Mr. Deputy Speaker, Sir, I do not think that, that will change the position of the Government. This is because we are very concerned about the councillors and their allowances as Government. However, we know that the revenue to pay those councillors comes from the specific, council and it is up to that particular council to improve its revenue base and pay its staff.

Mr. Anyona: Mr. Deputy Speaker, Sir, the Assistant Minister is hiding behind the general argument of failure to collect revenue. Can he actually tell us how much revenue this particular council has collected, and particularly from Kora Game Reserve? There is a game reserve there and you are collecting a lot of money from it. Can you tell us how much money you collect from the game reserve and from other sources?

Mr. Affey: Mr. Deputy Speaker, Sir, probably I can be able to give the Member the general impression of the Tana River Council's budget. The total income including the game reserve [Mr. Affey] revenue is Kshs12,731,460. Out of this amount, personnel expenditure is Kshs5,777,580 and councillor's allowances is Kshs4,712,400 per annum leaving a mere Kshs2,244,480 for its operation and maintenance. However, as to specificity, I do not think the Question was that specific but we have a general income including the game reserve the hon. Member has referred to.

Mr. Deputy Speaker: Next Question! Mr. Ndicho!

FINANCING OF SOUTH AFRICAN
TRIP BY THIKA MUNICIPALITY

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

(a) Is the Minister aware that Thika Municipal Council has plans to spend Kshs4 million for a trip to South Africa next week?

(b) Since the Council has many outstanding financial obligations like workers' salary arrears, superannuation fund and co-operative dues, could the Minister ensure that this expenditure is not authorised?

Mr. Assistant Minister for Local Government (Mr. Affey): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Thika Municipal Council has plans to spend Kshs4 million for a trip to South Africa next week.

(b) In view of my answer above, I do not think part "b" of the Question arises.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am surprised the Assistant Minister does not know about this. However, two weeks ago, the councillors held a full council meeting where they passed a resolution to spend Kshs4 million on this trip to South Africa. I am against this trip because the workers of Thika Municipal Council have not been paid their salary arrears, their superannuation fund and even their co-operative dues. The Assistant Minister says that he is not aware, but as the area Member of Parliament, I am making him aware. Can he promise this House that he is going to stop this trip in view of the fact that a lot of dues have not been paid to the workers?

Mr. Affey: Mr. Deputy Speaker, Sir, I think this Government is very responsible. From the concerns raised by the hon. Member, it appears that there was a mere proposal by Thika Municipal Council that they will spend the Kshs4 million for an educational tour to South Africa, subject to the approval of the 1999/2000 budget by myself. I have since rejected that. I have not approved it and there is no trip of that nature. That should give the Member more confidence in the ability of the Government to manage these councils.

Thank you.

Mrs. Mugo: Thank you, Mr. Deputy Speaker, Sir. Could the Assistant Minister tell this House what priority or criteria they use when deciding to go for a trip? We have read so often that even the Nairobi City Council Councillors and those of Mombasa Municipality go for a trip before they pay their workers. Right now, the staff of Pumwani Maternity Hospital are striking because of the deplorable conditions at the hospital. What are the priorities when you sanction those trips by councillors, instead of paying bills first?

Mr. Affey: Mr. Deputy Speaker, Sir, with regard to this particular trip, which is the concern of the hon. Ndicho, I would say that we have not sanctioned it. This is a mere proposal. The councillors wished to go, but because of the obvious reasons that the hon. Member has raised, we have since declined to approve that trip so the hon. Member should be happy that we have rejected the proposal.

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am sure that the Chair is as surprised as I am because the Assistant Minister is not giving the details of the proposal, yet in his answer to part "a", he said that he is not aware. It means that he is now aware. However, I am very happy that the Assistant Minister himself has declined to approve that proposal. In view of the fact that Government officials are going to New York and Europe to solicit for money---

Mr. Deputy Speaker: Ask your question!

Mr. Ndicho: Could the Assistant Minister assure this House that he is not going to approve any money to be spent by, not only Thika Municipal Council, but even Nairobi, Mombasa, Kisumu, Eldoret municipalities?. This is because the Government officials are going to look for money in Europe and when the Government officials go to Europe these councillors also go for a visit.

Mr. Deputy Speaker: Order!

Mr. Ndicho: Could the Assistant Minister promise this House that, there is going to be no any approval of any such trips?

Mr. Affey: Mr. Deputy Speaker, Sir, I would first of all request the hon. Member to avoid double standards. One time they are talking about the welfare of councillors; the other time, when a specific council raises revenue for the specific councillors to go out of the country, this is the reaction!

Mr. Deputy Speaker, I would like to assure the hon. Member that, I will not give blanket instructions, but I will be able to determine applications from specific councils and the need to go out. If there is need for them to go out of the country and money is available, I may not reject their application. But in the case of Thika Municipal Council, we rejected it because it was not a necessary trip, at this time of the year.

Mr. Deputy Speaker: End of Question Time!

MINISTERIAL STATEMENT

CURRENT POWER SUPPLY SITUATION

The Minister for Energy (Mr. F.P.L. Lotodo): Mr. Deputy Speaker, Sir, I would like to give a Ministerial Statement on the current power supply situation.

Mr. Deputy Speaker, Sir, last week hon. Members wanted to know why there was power rationing, when there is plenty of rain in the country. This is the position. As we all know, the performance of the long rains this year was below normal, which resulted in reduced water inflows to the hydro-power dams on River Tana. Despite this, our hydro-power plants continued to generate electricity normally, during the first eight months of this year. The imposition of rationing of power was effected from 1st September, 1999, because the water in the seven folks hydro-dams had reached dangerously low levels, which, with the prediction by the meteorologists that, the 1999 short rains may be inadequate, justified by the action. At this time, the water level at Masinga Dam, which is the holding reservoir for the downstream dams, had fallen from 1053.50 metres in December, 1998, to 1042.80 in August, 1999. The current level of rationing has been kept at 100 megawatts of power.

Mr. Deputy Speaker, Sir, with this information, the Ministry, KenGen and the KPLC, decided to commence load shedding to stretch the hydro-power generation to March-April, 2000, when the long rains are expected. Since that time, the Ministry, KenGen and the KPLC have been monitoring the dam levels daily. By 21st November, 1999, the water level in Masinga Dam had fallen further to 1039.377. Due to this deteriorating situation, the Ministry came up with two options. These options were, either to enhance the current level of power rationing in order to stretch hydro-power generation to the next long rains in March-April, 2000 or to import an emergency power generation capacity to augment the declining domestic productions. Either of the two options was going to impact negatively on the economy.

Mr. Deputy Speaker, Sir, we are encouraged by the recent rains which have mitigated against the pursuit of

either, enhanced rationing or the importation of the emergency generation capacity. As at 7th December, 1999, the water levels at Masinga Dam had reached 1044.80 metres. In view of this, I wish to assure this august House that, the current level of rationing will not be enhanced. Secondly, if the water level at the Masinga Dam reaches 1050.00 metres, Kamburu 1002.50 metres, Kiambere 691.10 metres, Turkwel, above 1007.76 metres; the current level of rationing will be lifted completely.

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

Mr. Deputy Speaker: Order! Hon. Gatabaki, the Minister is on a point of order!

The Minister for Energy (Mr. F.P.L. Lotodo): Mr. Deputy Speaker, Sir, I would like to inform this august House that, we are actively pursuing the policy of diversifying our electricity generation from mainly hydro to geothermal and oil-thermal-based.

In this regard, the project in the pipeline include:

(1) Kipevu II, when it will be ready, it will give us 75 megawatts and it will be a medium-diesel power plant which will be ready by December, 2000. There will be another one at Lanet which will give us 55 megawatts. It will also be a medium speed diesel power plant, and it will be ready by March, 2001. Another one at Eldoret will give us the same, 55 megawatts, and it will be a medium speed diesel power plant. It will be ready by March, 2001. Olkaria II geo-thermal power plant will give us 64 megawatts. It will be ready by March, 2002. Olkaria III will give us 64 megawatts, geo-thermal power plant. It will be ready by June, 2003. Finally, Sondu-Miriu hydro-power plant will give us 60 megawatts. It will be ready by October, 2003.

Thank you, Mr. Deputy Speaker, Sir.

POINTS OF ORDER

BENEFITS OF FORMER EMPLOYEES OF EAC

Mr. Anyona: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Finance, and I wish he could listen. There seems to be some session going on there.

(Members consulted loudly)

Mr. Deputy Speaker, Sir, as I said, I rise to seek a Ministerial Statement from the Minister of Finance and I am glad he is now listening. On 30th November, 1999, a momentous and historic event took place in Arusha, Tanzania. Our own Speaker and some Members of Parliament had the honour of attending the signing ceremony of the new East African Community. Given the importance of the new Community and given the fact that the earlier Community broke down due to lack of goodwill and support from members of the public in the three countries; it is very important that this new one is given the appropriate support.

In that case, an issue was raised in a meeting of Parliamentarians from Kenya, Uganda and Tanzania during our Commonwealth Parliamentary Association (CPA) Seminar with regard to the benefits of former employees. We know that there was an apportionment of the assets and liabilities of the former Community and the terminal benefits for employees of the three countries were paid to their respective Treasuries. It so happens that in the case of Kenya and Uganda, apparently, the workers have not been paid up to this time. We would like the Minister for Finance, first, to confirm that the terminal benefits of these employees were, indeed, paid to Kenya by the defunct Community. Secondly, we would like the Minister to tell us how much money was paid, the number of employees involved and when these benefits will be paid so that when the new Community starts, it has the goodwill and support of everybody. Thank you.

The Minister for Finance (Mr. Okemo): Mr. Deputy Speaker, Sir, I would like to confirm to the Member that I will come up with a Ministerial Statement next Thursday.

STALLED HYACINTH PROJECT ON LAKE VICTORIA

Dr. Ochuodho: Mr. Deputy Speaker, Sir, on 6th October, I sought a Ministerial Statement from the Minister for Environment with regard to the stalled hyacinth project on Lake Victoria. Three times since, the Chair has given a ruling that the Minister brings forth that Ministerial Statement. Instead, the Minister continues to give Press conferences outside Parliament, including yesterday. Considering that this project has stalled, the consultants have been fighting and they have gone back to the USA, I request the Chair to prevail upon the Minister to give a formal Ministerial Statement with regard to the hyacinth project this afternoon.

The Minister for Environment (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. I promise to give a

Ministerial Statement on Thursday.

DISCONNECTION OF ELECTRICITY

Mr. Munyao: On a point of order, Mr. Deputy Speaker, Sir. I just want to seek clarification from the Minister for Energy on the Statement he made. Power, both domestic and industrial, is a very important item. Along with the measures he has outlined, both in relation to rationing and even disconnecting power for non-payment, will the Minister consider putting somebody in Electricity House 24 hours so that even if the power is disconnected at 2.00 a.m., somebody will be there to reconnect it after having been paid? Will he also stop the malicious practice which the Kenya Power and Lighting Company now have of disconnecting power immediately some consumers go out so that they suffer over the weekend?

The Minister for Renewable Energy Development (Mr. Lotodo): Mr. Deputy Speaker, Sir, I would like hon. Munyao to pay his bill within the time stipulated on the bill and we will not disconnect his power. But if he delays for some hours, we will disconnect it and he will pay us so that we can go and reconnect it.

BANNING OF MUMIAS SUGAR FC

Mr. Osundwa: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Home Affairs, Heritage and Sports---

(Members consulted loudly)

Mr. Deputy Speaker: Order! Order, hon. Members! Let us hear what the Member has to say. Give him a chance to be heard. Proceed, Mr. Osundwa.

Mr. Osundwa: Thank you, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Home Affairs, Heritage and Sports on why last week, the Kenya Football Federation League and Competition Committee banned Mumias Sugar FC and stripped it of all its titles and honours and also suspended it from the League for one year. Their mistake was scoring 10-0 goals against Kisumu All Stars, a relegation bound team. I would like the Minister, in that Statement, to answer the following questions; first, why investigations were not carried out before this punishment was meted out to Mumias Sugar FC; and secondly, why Mumias Sugar FC was not called upon to give its side of the story. This team, Kisumu All Stars, has in the past League lost 7-0 to KCB---

Mr. Deputy Speaker: Order! Order! You have sought your Statement. Is anybody here from the Ministry of Home Affairs, Heritage and Sports? I hope they will get that message and come and give an appropriate Statement.

Mr. Osundwa: Mr. Deputy Speaker, Sir, it is better that I get this Statement before we go on Recess.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, will you allow me to comment on the answer given by the Minister for Energy on the state of energy in Kenya?

COMMUNICATION FROM THE CHAIR

CHANGE OF ORDER PAPER

Mr. Deputy Speaker: No, you cannot. Order! Order! Hon. Members, you can see that on the Order Paper, Order No.7 is a Motion by hon. Raila. Last time when we interrupted our business, the Motion on the Floor was that one by hon. Karua and you will see also that hon. Karua's Motion is denoted as a Party Motion. Something will have to be very, very special and very important for one party's Motion to be superseded by another party Motion. In those circumstances, not being aware of why the House Business Committee ruled that hon. Raila's Motion should take precedence over hon. Karua's Motion; I am exercising my powers as per Standing Order No.31(2) to alter the order of business and that we shall proceed with hon. Karua's Motion.

(Loud consultations)

Order! Order! After all, there is only one hour left of it and we should complete it so that we can start the other Motion on a clean note.

(Applause)

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. I am a Member of the House Business Committee and I want to assure this House that when we met last evening, we did not change the order and, therefore, according to me, I know that hon. Karua's Motion is coming before my Motion and that is one hour before I move my Motion. So, this is not by design. It is not a decision of the House Business Committee.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I think it is important for the House to know what is going on. We do not want some of the past practices to keep on creeping into this Order Paper. How come that the Order Paper reflects a situation---

Mr. Deputy Speaker: Order, hon. Anyona! What is going on is that hon. Karua's Motion is now back on its rightful place on the Order Paper; it is being debated now. Hon. Mrs. Mugo, you have seven more minutes. Could you proceed?

Mr. Kirwa: On a point of order, Mr. Deputy Speaker, Sir. Let us not create a problem out of this small matter. Could it be, specifically, made clear to us, as hon. Members of this House, as to what happened yesterday? Who prints the Order Paper?

Mr. Deputy Speaker: Order! Order! Hon. Members, I wonder whether you want to debate what has happened to the Order Paper or the Motion. As I said, I am not a Member of the Business House Committee, but I have ruled that the Motion that was on the Floor last week be re-instated, and we must now continue. If you want to ask the House Business Committee how it takes its decisions, you can do so. However, you are addressing your question to the wrong party. Proceed, hon. Mrs. Mugo.

MOTIONS

LEAVE TO INTRODUCE THE EQUALITY ACT

THAT, this House do grant leave to introduce a Bill entitled The Equity Act to make provision for equal treatment of citizens of this country irrespective of gender and end all forms of discrimination.

(Ms. Karua on 1.12.99)

(Resumption of Debate interrupted on 1.12.99)

The Minister for Education (Mr. Musyoka): On a point of information, Mr. Deputy Speaker, Sir. I am also a Member of the House Business Committee, and I concur with what hon. Raila said. The House Business Committee did not take any decision on this matter. So, I would plead that we proceed as per the Chair's ruling.

Mr. Munyao: On a point of order, Mr. Deputy Speaker, Sir. We are setting a serious precedent in this House.

Mr. Deputy Speaker: Order! We are not setting any precedent. Proceed, Mrs. Mugo.

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

Mr. Deputy Speaker: Order! Order! Hon. Members, if you want to discuss this matter in detail, you know what you are supposed to do; I will not allow you to do it under points of order. There is not the time to exhaust it under points of order. You know what to do.

Mr. Munyao: But we are addressing---

Mr. Deputy Speaker: Order, hon. Munyao! Mrs. Mugo, proceed.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. The Chair's ruling that we now revert to hon. Karua's Motion is procedurally wrong, because this Motion is no longer the first one on the Order Paper!

Mr. Deputy Speaker: Order! Order! Hon. Members, the Chairman of the House Business Committee is an hon. Member of this House.

Mr. Kirwa: Let him tell us what is happening!

Mr. Deputy Speaker: Order, hon. Kirwa! Hon. Members, the Chairman of the Business House Committee is not here at the moment. I am as concerned as you are because I am also a hon. Member of this House. I will transmit to the Leader

of Government Business, the sentiments of this House, so that he can come here and make a Statement. That is now the end of that story. Hon. Mugo, proceed.

Mrs. Mugo: Mr. Deputy Speaker, Sir, I have a bad cold, and I cannot shout. Could I speak from the Dispatch Box?

Mr. Deputy Speak: Proceed.

(Mrs. Mugo moved to the Dispatch Box)

Mrs. Mugo: Mr. Deputy Speaker, Sir, I hope that hon. Members will remain in the Chamber out of respect for this Motion seeking leave of the House to introduce the Equality Bill. All the democratic forces should be in this House as this Motion is debated.

In supporting this Motion before the business of the House was interrupted last time, I was referring to the Kenyan report that was presented to the recent gender summit in Addis Ababa and pointed out the untruths contained in it. I added that, that was a shameful act. As members of the Kenyan delegation to that summit, we should have seen this report in Addis Ababa rather than see it here. This happened mainly because the Government was telling half-truths on the implementations of the Beijing recommendations. I would like to take this early opportunity to urge the Government to make such reports available to us in advance next time; otherwise, we will embarrass it at international meetings by saying that it is lying. This shows that the Government knows exactly what needs to be done for equality and for women. It is in that spirit that I hope that the Government will implement these undertakings, so that it will not have to lie again in New York next time.

Mr. Deputy Speaker, Sir, I will try to be very brief and to the point, and say that this country still has no gender policy. Going by what a Cabinet Minister said last time, there will be no objection to this Motion. However, we need more action than words; there has been too much lip service paid by this Government to women issues. Until the Government puts in place the proposed gender policy, which has stuck with the Cabinet for too long, we will not take its commitment to implement the same seriously since there can never be a budget put aside for women issues. The proposed gender policy, if adopted, will ensure the establishment of structures for its implementation.

I would also like to speak, briefly, on the East African Co-operation. We were very embarrassed in Adis Ababa when it surfaced that women from Uganda and Tanzania already knew that they would be represented in the General Assembly of the East African Co-operation. I will not be surprised to learn that the Government is contemplating to nominate men only to that Assembly. We hope that the women of this country will have their rightful share of representation to that Assembly. The uncertainty regarding this matter is due to the fact that we do not have a policy in place regarding gender. However, because our sister States have gender policies in place, they have been able to say that women will be represented in that Assembly. We hope that, since we are talking about equality, representation to that Assembly will be shared equally between the men and women of this country. We hope that out of the nine Kenyan representatives to that Assembly, at least, four will be women.

[Mr. Deputy Speaker left the Chair]

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

We would like to see equality among men and women in this very House. Many things happen in this House without us being considered. Even in this Chamber, there are some facilities for gents, but none for ladies. So, we want to see this House updated, to be representative of all people, because we, women, also intend to be in this House. We hope that the statement "For the welfare of Society and the Just Government of Men", which is inscribed at the entrance of the Chamber, will be amended by adding the words "and Women" at the end, so as to read: "For the welfare of Society and the Just Government of Men and Women". Equality must start right here.

Mr. Temporary Deputy Speaker, Sir, the best laws are those which are written in men's and women's hearts. We can have laws written on paper, but which cannot be respected. I would, therefore, like to appeal to hon. Members, as leaders, to start writing these laws in their hearts today, so that when they make pronouncements, they are not pronouncements that belittle women. We are tired of hearing people in leadership making statements such as "are you a woman to this or that?". This is a primitive and childish attitude, and it must be stopped. So, I hope that, from now, when leaders speak, they will do so with dignity where women are concerned. We should not hear statements such as: "Those are frustrated divorcees". We have very many frustrated men divorcees in this House who hold very high positions. We refuse to be intimidated any more. Women must be respected in this country. So, we are looking for laws that will be written in the hearts of men and women. We will only say that this country is civilised and developed if we

embrace women development. We will even combat poverty as long as we address and articulate issues concerning poverty. This is because most of the people who are poor in this country and even in Africa are women and, yet when you look at the Poverty Eradication Plan, there is very little on gender, if anything at all. In fact, women were not consulted or involved in the planning. I hope that before the Attorney-General leaves the Chamber, because he seems to be doing so, he gets to know that we are waiting to hear from him when he will implement the recommendations that were made by the Task Force on Women, which was chaired by Justice Effie Awour, before we enter the next millennium. This is because we are tired of the lip services provided. We have been taken for granted for a long time. I think any self respecting man in this country will from now onwards respect the will of the 51 per cent of this population. These women are the men's mothers, wives and sisters. They are part and parcel of their lives. I do not know why men should feel so threatened that every time there is--- Look even here in this House, when hon. Raila's Motion will be brought before the House, all the men will be back here. This shows the little regard our men have for women issues. That is why we want 50 per cent of the legislators of this House to be women, so that when we discuss issues that relate to development of this country, women and children, there will be hon. Members in this House to listen and articulate them.

Mr. Temporary Deputy Speaker, Sir, we cannot speak of equality without--

With those few remarks, I beg to support.

Mr. Ndicho: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I rise to strongly support this very important Motion and congratulate the Mover, hon. Karua, because of bringing this Motion to this House. We hope that when the Bill eventually comes to this House a lot of things will be included, so that we totally remove any form of discrimination that we have in this country.

Currently, there are so many forms of discrimination against Kenyans. I have quite a number of them. Today, it is very unfortunate to be a black Kenyan when you work under the environment of white people, like the Asians and *Wazungu*. My constituency happens to have over 150 factories and industries that are owned by Asians and white people and the discrimination that goes on there is so enormous. Workers there have tried to raise their voice through their union, hon. Members of Parliament, councillors and any forum, but it all falls on the deaf ears of the Government.

When we gained Independence in 1963, the form of gender discrimination that was there was so glaring that women in this country could not even be given national identity cards (IDs), open bank accounts and do so many things. But as we go through the process of advancement in our politics, social status and other forms of development, we have seen that there is positive response as far gender discrimination is concerned. So, we support this Motion, but we would like to say that the Government must be keen. We are not only talking about discrimination of women of this country---. I would like to correct my colleague here that when that writing says: "The Just Government of Men", biologically, women are also men.

An hon. Member: No! No!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, if there is a big problem, it is only a matter of including the words "and women". There will be no problem in doing that. But all we are saying is that, as we move on into the next millennium, it is important for Kenyans to be proud of themselves as black Africans. We do not want to apologise for having been born black. Our country has been taken over in all forms of our living by the white people. Go to the Government offices today, line up and a Mhindi or a Mzungu comes behind you, you will see a Government officer telling him to "jump" the queue so that he can be served. These cases are prevalent in all our areas, such as hospitals. Let there be an accident today involving some white and black people, and you will see some ambulances taking some injured people to Kenyatta National Hospital while others are taken to Nairobi Hospital. You will also realise that the Africans will be left at the scene of the accident while the Wahindi and Wazungu will be taken for treatment first. This is the discrimination we are talking about in this country.

As an African, when you go to their country, you are discriminated against and when you are in your own country, you are still being discriminated. So, it is high time that we all formed a strong defence for our people against all these forms of discrimination.

Mr. Temporary Deputy Speaker, Sir, today, if you are a poor Kenyan, you cannot get services, because you are discriminated against. I believe that this Motion will do away with all these things.

If you are an ordinary Kenyan without a tie or with tattered clothes you cannot be accepted in the Hilton, Hotel Intercontinental or New Stanley by the management. By just a mere look, one cannot tell how much money such a person has in his pocket, but he is sent away because of his appearance. We would like this to be done away with in these hotels and other high places. We should do away with inscriptions such as, "The management reserves the right of admission". These were colonial inscriptions which were meant to deny an African the right to enter into a place. Today, 36 years down the road, the management still reserves the right of admission! You can be kicked out of these places just because you do not have a tie or you are badly dressed. If a white person goes naked into that hotel, since the management reserves the right to admit him, he will be admitted in whatever form he is in.

The other lot that has been discriminated against in this country are the disabled. There was a Question here this morning about the amount of money that was raised in 1989 for the disabled people of this country. If that money has had no impact - and I insist there has been no impact at all - is that not a form of discrimination? We know of people who have benefited from that money who are not disabled at all. That is why we would call for the sacking of the person who manages that fund, Mr. Eliud Mahihu. He has totally failed. He has discriminated against the disabled people of this country. He should be removed the way he was removed from the Tourism Board because the disabled people are not benefiting from that Fund. How can you describe that technically? It is discrimination.

Kshs70 million was raised in 1989 to help the very same people who are not benefiting from it. This is discrimination by the Government! We would like to call upon the Ministry involved to take up that issue with Mr. Mahihu about the disabled persons in this country. It is a shame. When you walk in the streets of Nairobi or you drive along Uhuru Highway you will see so many disabled people borrowing Kshs5, Kshs10 or Kshs20. A policy should be formulated on how to eradicate all the disabled people from the streets. Let that money build an institution somewhere where they will be trained in various entrepreneurial skills. That money is enough. The Members were saying that, that money has generated interest since 1989.

That money could be put into use. We can set up a vocational training institution where they will all be trained. When they finish those courses, they will become useful citizens. When we continue seeing an increased number of disabled people in our streets and towns, what is that telling us? That the Government has no policy concerning them? That the Government is discriminating against them? That the Government is denying them their right to live? That is another form of discrimination.

That money should help to eradicate the problems faced by these people. I really feel ashamed. It does not mean that there are no Europeans who are disabled in Europe or disabled Indians in India. You will not find Asians, Europeans or Americans begging for money in the streets of New York and Washington because the Government there has taken drastic action and refused to discriminate against those unfortunate citizens.

We have seen so many forms of political discrimination. I am happy that now things are changing. At the advent of multi-partyism in 1990-1993 you could go to a Government office and you could not be served at all by any Government official by the mere fact that you were a Member of an Opposition party in Kenya. First and foremost, he would fear that he would be sacked if seen serving an Opposition character. Even today there are still pockets of political discrimination in this country. If you go to a chief, a DO or a DC you will be refused service simply because you are from the Opposition.

I beg to support that all these forms of discriminations; political, racial, colour and others, be removed from our laws.

Mr. Kirwa: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support the Motion.

I must say from the onset that we as a country have done a tremendous job as compared to many developing and developed countries as far as women issues are concerned. That does not necessarily mean that there is nothing we can do to improve the situation. There are so many Sections of the Constitution that clearly demonstrate that its architects were first thinking of men and then because men had to stay with women, they brought in women as a by the way.

I hope when this Motion is passed to grant the leave of the House to bring the Equality Bill, those Sections must be critically looked at for us to harmonise the situation. My worry as far as some of these Motions are concerned, is that while the Government will go ahead to accept this Motion, it will take a lot of effort, arm-twisting and persuasion to the extent that you wonder whether the Government was serious in the first place when the Motion was being discussed in this House or it was hoping that the situation will sort itself out.

There are so many other Motions that we have passed, urging the Government to do one thing or the other. They readily pass them, but at the end of the day, it takes more than ten years for us to see light at the end of the tunnel. I am hoping that once we grant leave of the House, the Attorney-General will, in consultation with the Mover of this particular Motion, move with speed and diligence so that by the time we get back to the House this Bill should be brought.

There are so many things we need to do between now and the next general elections. One of them is affirmative action. We allow women to run for various elective positions, but in this House we have a number that is not even 10 per cent of the number of Members of Parliament and yet more than 50 per cent of our voters are women. The question is: What do we do to encourage women both in the rural and urban centres to understand that other women are also leaders? My suggestion is for us to have a serious affirmative action to bring an amendment to the Constitution which states that for every 10 elective positions there should be one seat for women, appointed or nominated through a certain system.

This will translate into having 20 other Members of this House from the fairer sex. This will not only

encourage members of the public, but it will also show the world that we are serious about the role of women in this country. As we wait to say they will be elected on their own, it will take a lot of courage. For a lady to be elected to this House, she has to do double the work a man can do. For a man to be elected possibly, he needs 50 per cent of the performance of the woman to be recognised as a suitable Member of Parliament. How many women do we have outside there who have the courage, ability and also the determination to fight it out with many men and also against the wishes of their fellow women? It is my humble suggestion that we have to do something about it.

The other issue which I would want to share with the hon. Members is silent discrimination against women. It causes children both in high school and in primary school to drop out due to various reasons. One of the issues is the question of pregnancy. The other issue is the question of attitudes in our societies. Despite all that we have said about the need for education of the girl child, it will take a number of years before many parents appreciate this. Therefore, this situation needs to be brought to a level where we will have an equal number of girls to boys not only in primary schools, but also in secondary schools. Primary schools statistics are so deceptive. How many of those who are in primary school will end up in secondary school and eventually in the university? Are they dropping out because of their academic inability? The answer is "no". They are dropping out because the priorities of parents up to now is still in favour of the boys. The Ministry of Education Bursary Fund that we have always been having although we never see it on the ground should be implemented in a way that it facilitates the education of the girl child, particularly in rural areas. This is the only way we can encourage this particular section of our community to get adequate education and exposure in the society. With that kind of exposure, we are sure that, we are likely to have leaders at the end of the day.

Mr. Temporary Deputy Speaker, Sir, having said that, I would like to share with this House one basic problem about this country. The problem is not about the laws or women, but the problem is about leadership. Leadership has been the main culprit in trying to make women disadvantaged. Throughout the country, there are so many women's groups. For instance, Maendeleo ya Wanawake Organisation has got a network almost everywhere in this particular nation, but we have specialised that women are vehicles for political ends. This is why around every general election time, there is a lot of mobilisation to do numerous harambees, which are not even audited and co-ordinated in the name of harambees to assist women in this country. Once elections are over, not only are women are forgotten, but even the money that was collected is left at the discretion of the DCs, to misuse or to do whatever they want to do with it. This is a culture that must stop. This is because we can make very good laws, but if we are not ready to practise the same, we are only taking a lot of public time and resources to do our own politics.

Mr. Temporary Deputy Speaker, Sir, the other issue is the pervasive cult of mediocrity, that seems to be promoted by our people, particularly the leadership. Why I am saying this is that, women are equally qualified in many other fields. When we are advocating for them, we are not only doing so because they are women, but they are also good performers. Therefore, when it comes to appointments in various places, do not appoint somebody just because she is a woman. Let us appoint that person because she is qualified and competent to do the job.

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

The Assistant Minister for Education, Science and Technology (Mr. Awori): Thank you, Mr. Temporary Deputy Speaker, Sir.

I will confine myself to an area which is very heavily discriminated against. It has been mentioned very briefly by my colleagues, but I want to discuss just that. That is the disabled. Ten per cent of our population is disabled. But we have a culture of trying to keep them out of sight. In fact, the first organisation that discriminates against the disabled, is this very august House. Earlier during this Session, we had Dr. Leakey in a wheelchair. He was unable to get into the Chamber, because there is no accessibility. There are steps instead of ramps. This simply means that, Parliament is not ready to have a disabled person. During the last Session, we had a Member who lost sight, hon. Ombaka. Without a fellow legislator reading for him the Order Paper, he was absolutely helpless. Today, we have hon. Mrs. Sinyo who is hard of sight. We have not made any arrangement for her at all. There is no reason why we will not one day have a Member of Parliament who cannot hear. Therefore, we need sign language.

Mr. Temporary Deputy Speaker, Sir, it is important that we should start here and now, so that the Order Paper has got a braille section of it. It is absolutely essential. It is essential that a person who cannot see and he is a Member of Parliament, must be given an aide. An aide distinguishable with uniform, so that the aide can bring him or her in the Chamber and guide her or him around the area. If we are talking of equality, we have to start right here, as it is stated that, "charity begins at home".

Mr. Temporary Deputy Speaker, Sir, I was really very down hearted when I went through the document on Census exercise. We lost a good opportunity of getting an accurate figure about the disabled persons in this country, when we carried out the census exercise. On that document, there was no question at all, to determine the number and the type of disability we have in this country. This just reinforces the culture of discriminating against the disabled. If you walk around the streets of any of our towns and you are on the wheelchair, you will find great difficulties of

moving from pavements to the road and *vice versa*, because we have not thought about the accessibility for the disabled persons in this country. It is necessary that we have in the Constitution, clauses that will enforce the protection of the disabled.

Mr. Temporary Deputy Speaker, Sir, where we discuss about accessibility, it is not just in the streets alone; there are no buses here, that cater for the disabled. The trains do not cater for the disabled. At the airport, when a disabled person comes on a wheelchair, instead of the plane joining a bridge that will take the passenger right down, they bring stairs. It is a very difficult situation for a disabled person to get down on the staircase in a wheelchair. This is all discrimination against the disabled.

This morning, there was a Question about the funds for the disabled, but our colleague did not have enough facts. In fact, I am sorry to say it and I know that Mr. Speaker, you are a member of that Fund, that, the funds are not being properly utilised because the amount of money that is there, should not just be kept in a place when---

The Temporary Deputy Speaker (Mr. Musila): Order! I have a few minutes remaining before the Government responds to this Motion. So, I will give Dr. Kituyi five minutes.

Dr. Kituyi: Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. I hear very serious noise around Parliament Buildings. Are we safe? Could the Attorney-General assure us that we are safe in this House?

The Temporary Deputy Speaker (Mr. Musila): Order! You may wish to go out and find out.

Proceed, Dr. Kituyi.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, this is the fifth time I am contributing to a Motion in this House about gender fairness. And like all the first four times, hon. Members displayed a continued disinterest in the matters of gender equality. I just want to say the following: For starters, the crisis of gender question in Kenya is the crisis of the attitude of leaders. Until and unless we get leaders to see their responsibilities and do justice, creating laws in itself would be insufficient.

Last week, I had the privilege of attending an Inter-Parliamentary Workshop in Arusha with hon. Members from the Parliaments of Kenya, Uganda and Tanzania. One of my colleagues, present here right now, stood up and said: "If you read the Bible, God created men to be above women and we have no right to start questioning what God created." And I was looking at the face of a Gracious Lady, the Deputy Speaker of the South African Parliament, and I was seeing the agony and pain on her face. I was feeling that agony inside my heart. However, that was a very popular argument among many of my colleagues from Kenya.

Mr. Temporary Deputy Speaker, Sir, on the question of gender equality, Kenyan political leaders live in the Stone Age. We still talk about these things as if they are jokes, or as if they are childish games. We still keep more than 50 per cent of the population of this country in virtual servitude. The fact that a Bill seeking equality is being introduced as a Private Member's Bill, and not by the Attorney-General, is evidence that the Government on its own is not ready to move on to an important front like that and has to wait to be jump-started from the Opposition Benches.

In this country, we have had a number of crises that call for justice and fairness. To-date, professions that draw a lot of occupants from the gender of women tend to be devalued in public perception and remuneration; that when a job has many of its workers as women, the salaries given to them are always lower than if that job was predominantly occupied by men. And that is one of the areas of injustice that we have to fight consciously if we have to start talking about equality. We have a major cultural dimension to the gender inequality in this country; it is the crisis that we have in agriculture in the rural economy. Mr. Temporary Deputy Speaker, Sir, in a typical household, the farmer who grows, weeds, tends, harvests and delivers coffee is a woman. But the coffee is delivered against the bank account of the man. The only person who draws money from the coffee delivered is a man, and the only evidence that, that money has been withdrawn is when the man comes home and he is drunk and beats up the same woman. In maize economy, it is even worse. The transition from traditional crops, which used to be stored in the custody of women, to the cultivation of maize has centralised storage in a store owned by a man. Apart from losing control over the process of her labour, the woman even loses control over the requirement for the survival of the family; that the man can dispose of the proceeds of a woman from agricultural labour without any consultation with the woman, whereas in the earlier times, the man could not go to the stores, for example, of sorghum, or millet, or go to the farms to harvest cassava, or potatoes in the domain of the woman. Unless we consciously start addressing the question of transformation as the transfer of economic power from a woman to a man, however, much we legislate for equality, we will not be able to deal with the reality that we are living in a society that is increasingly hostile to 50 per cent of its population. Nobody has paid attention to the crisis in the advertisement industry. For a long time, we have been accommodated to the structure of advertisement where---

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Kituyi! It is time for the Government Responder to reply.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, I have been given five minutes by the Government

Responder.

The Temporary Deputy Speaker (Mr. Musila): Order! I now call upon the Attorney-General to respond.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I want to respond to the Motion.

Mr. Temporary Deputy Speaker, Sir, first, I want to state quite clearly from the outset that the Government supports this Motion, because it is already doing something about it. I hope that the hon. Member who has moved it will co-ordinate and co-operate closely with the Attorney-General's Office on behalf of the Government so that I can bring, as quickly as possible, the necessary legislation to effect the spirit of this Motion.

The issues of human rights, just like the issues on the Constitution, are so fundamental that we should have bi-partisan approach so that when we are deciding on legal reforms, which touch on human rights, such as the proposed Equality Act, we should try to bring everybody on board, because they are so fundamental to the wellbeing of our society. And that has been the approach of the Government in undertaking law reform in this country.

One of the most fundamental principles underlying human rights as a whole is the principle of equality and non-discrimination. Our Constitution does recognise that human rights have to be enjoyed without any discrimination whatsoever as to race, sex, language or religion. The same phraseology is to be found in the Universal Declaration on Human Rights, the International Covenant of Civil and Political Rights and the International Covenant on Economic-Social-Cultural Rights. Those rights must be enjoyed without any discrimination whatsoever. At the international level, you are aware that when you talk about non-discrimination as to the race, the United Nations has developed a declaration or a convention on the elimination of racial discrimination. And all that helped galvanise the international community against the abhorrence system of Apartheid which by then pertained in South Africa.

Mr. Temporary Deputy Speaker, Sir, when it comes to gender issues, the same international community agreed on a convention on the Elimination of all Forms of Discrimination against women which was adopted in 1979. This gist of the convention is that women and men are entitled to equal enjoyment, and exercise their human rights and fundamental freedoms. The Convention addresses women's equal rights to education and training, health and employment in public and private life.

Mr. Temporary Deputy Speaker, Sir, it is, indeed, true, that if this country has to develop economically and commercially, then we must be on the forefront in getting priorities in promoting gender sensitive human developments. We cannot develop, if more than 51 per cent of our population which comprises the women, does not have their rights to realise its potential and to contribute meaningfully to development. Men on their own cannot be the engine of development. The engine of development is men and women working together. To enable women to be able to contribute on an equal footing with men, then certain legislation; certain policy changes must take place. That is why the Government, in 1993, set up the Task Force to review all the laws relating to women. That Task Force, which I had a privilege to appoint, was given a very wide mandate. It was not just to look at the constitutional and legal mechanisms, it was also to look at the policies and the programmes, that should be put in place. It was also to look at the customs and the traditions that inhibit women in their taking part, as equal partners in the activities; social and economic in this country. That Task Force was composed, mainly by women themselves, because they are the persons who know where the shoe pinches. We had about three men on the Task Force, but I understand, they were made honorary women for the purposes of that Task Force. They contributed as honorary women to the activities of that Task Force. That Task Force, as all other task forces, went around and took the views of the women in this country on the various issues. It was not just the elites sitting down and conceptualising what should be done. It was those women going to the grass roots, asking their mothers and grandmothers on where they think policy changes should be made. They were very surprised, that contrary to what is believed, those peasant illiterate women have definite views on what has been making them live as human beings in this country. They have definite views on what has been oppressing them and they expressed them fully.

That Task Force carried out research in all aspects of human activities, in so far as they affect women and so on. I am glad that after a thorough work that had been done, on Friday last week, I received the most voluminous two volume report that I have ever received from any task force. So, as I talk in this august Assembly, we have in our possession, all the information that is required. Therefore, the age of information gathering is over, and we now move to the next stage of definite programmes of action, to implement what we need to do.

Mr. Temporary Deputy Speaker, Sir, I am glad to report to you that the Task Force has already made a preliminary draft Bill on Domestic Violence, Family Protection Bill. It has already made a preliminary draft Bill of another Bill, called the National Council for Gender Development, which will be mandated to assist in the formulation of policies and programmes to benefit the women. It will also be mandated to initiate legal reforms on issues affecting women. They have proposed many other new legislations and also substantial amendments to the existing legislations. Therefore, I now call upon the women organizations and hon. Members of Parliament who are women to continue to work closely with the Attorney-General in bringing about the necessary required legislative changes as quickly as possible. I am glad, that on this issue of gender, the women organizations have worked very closely with Government

Ministries, and in particular, my office. I would like that co-operation to continue.

Mr. Temporary Deputy Speaker, Sir, yesterday, I received a letter from FIDA, in which they said that we had worked closely and they were looking forward to working with my office to ensure that all those proposed Bills, which have been recommended by the Task Force on laws relating to women are enacted into law as soon as possible. I have replied in the affirmative, telling them that my co-operation is there, they should come to my chambers and we shall draft the Bills and push them through the Cabinet. If they come to this House and given a by-partisan approach, they will be passed unanimously by this august Assembly.

I support.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, with your permission, I beg to give to hon. Ntimama, hon. Mwenje and hon. Kathangu each, two minutes of my time.

The Minister of State, Office of the President (Mr. Ntimama): Mr. Temporary Deputy Speaker, Sir, I would like to thank hon. Karua to have given me these two minutes to speak on the human rights and equality.

Mr. Temporary Deputy Speaker, Sir, I represent a group of people, who, through no fault of their own were marginalised and discriminated against by the colonial regime. We have not recovered from all the discrimination that was placed on us by the colonial Government. This is why I support this Motion, for anything that will give people their rights, especially the rights of women. I think the women have come out to fight for their own rights, and we should support them. These include, domestic discrimination, State discrimination and discrimination by any authority. Children too, have their own rights which need to be protected. They need to be protected from child labour and sexual abuse. Anything that will bring equality to men and women will be supported.

Mr. Temporary Deputy Speaker, Sir, we feel that some people from my own area have suffered tremendously from the colonial Government. Development is a human right. These people feel that they have been having some nominal development and not real development even from the successive, two African Governments. There has not been anything that has been geared towards their development.

I support the Motion.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I am in support also of the reply from the Mover. The good thing about this Motion is that it is talking of equality. It is not even talking of women. I am glad that the Mover talked of Equality Act. We also have some women for example the Wanderas, who have also messed up this country and this City. This is not the kind of things were are talking about, but we are talking about equality for all. I support this Motion and I would like the Attorney-General to move, as fast as possible, to bring in this Bill so that we can pass it and everything can run well. I must remind the Attorney-General, however, that when preparing this Act, he needs to remember the natural and the Godly side of it because we are God's creatures. He needs to remember what was said originally in the Bible in the book of St. Paul to the Corinthians. I want the Attorney-General to take into consideration

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje, I have already allowed somebody else to speak.

(Mr. Mwenje stood up in his place)

Will you sit down, Mr. Mwenje!

Mr. Kathangu: Mr. Temporary Deputy Speaker, Sir. I would like to support this Motion.

First and foremost, I want to say that advertisements on television and radio about whiskies, vodkas and brandies and on "toboa dogo dogo" must be stopped in this country. Secondly, anybody in this country who wants to demean the dignity or respect of women and children has also to be stopped. I want to give an example that when we are talking about Philippines and the changes out there, we are talking about the efforts of the women and the children who were on the front line to remove Marcos. Some people here have argued that the Marcos regime was clean and that the women and children were abuses to that system. Therefore, while we are talking about the constitutional amendments and reforms, we want also to give very big hearty congratulations to the contribution of women and children of this country.

Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion by recognising that 52 per cent of the voters and the population is composed of women. We must therefore, agree that they must be respected. Therefore, I congratulate the Mover of the Motion.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank all the hon. Members who have supported this Motion. This has shown that we have come a long way on issues of gender in this country.

Mr. Temporary Deputy Speaker, Sir, I want to agree with the Attorney-General that there is need to work closely with his office when drafting the proposed legislation. I also want to assure the Members that there will be wide consultation to ensure that all the concerns raised by the Members of this House are included in the Bill. I want to say

that the Act is not just about equality between men and women, but it is also about discriminations based on disabilities, minority and about all marginalised people. Therefore, we shall ensure at the drafting stage that all these concerns are taken care of. I would also like to say that I will do my best to see that the Act is drafted and ready for tabling before the House by March, next year when Parliament reconvenes.

Mr. Temporary Deputy Speaker, Sir, the loser is the society where there is discrimination.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, can I have your protection?

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! We would like to hear what the hon. Member is saying. So, please would you consult quietly!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I was concluding by saying that where there is discrimination and where the citizens do not enjoy their human rights, the biggest loser is the society because discrimination affects the rate of growth and, therefore, affects even the economic performance of a country.

Mr. Temporary Deputy Speaker, Sir, by supporting this Motion, this House has supported development in this country. It is supporting a new era in the next millennium where all citizens of this country will enjoy their human rights contribute equally to the development of this nation. The Act will prevent both direct and indirect discriminations, whether based on gender, ethnicity, minority or in any other area. I am assuming that hon. Members of this House support this Motion, and will ensure that it actually passes through to enable us to prepare the Bill.

Hon. Members of this House have in the first place supported initiatives that affect the status of women. We know that women cannot take their gender forward without the active participation of our male counterparts. I, therefore, appeal for a strong partnership between the genders to enable this country to progress, and to enable us to domesticate international covenants. With those few words, I beg to move.

(Question put and agreed to)

REVIVAL OF CONSTITUTIONAL REVIEW PROCESS

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

THAT, while noting that the Constitution of Kenya Review Commission (Amendment) Bill, 1998 received Presidential Assent on December, 24, 1998, with a commencement date of December 30th, 1998; cognisant of the fact that the implementation of the Act has been hampered by the disagreement over the nomination of Commissioners among some stakeholders and concerned that the review process is now behind schedule as a result of the impasse, this House urges the Attorney-General to reconvene the meeting of all stakeholders not later than seven days on approval of this Motion in order to resolve the stalemate; and further that each stakeholder listed in the Act be represented by two persons at the said meeting.

Mr. Temporary Deputy Speaker, Sir, the issue of the constitutional review---

Mr. Kibaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. This matter is under some consultation. There is need for us to consult further so that we seek a solution. There are intentions of amending this Motion and papers to this effect have been circulated. Therefore, we will pre-empt the efforts which are being made by the leaders of political parties to try and arrive at a consensus. It would be much better, and more to the benefit of this nation, if the debate was postponed to a later time, so that we could have easier and more consultation which would enable us to arrive at something which will help this nation.

Mr. Temporary Deputy Speaker, Sir, if we go ahead and set up a Select Committee, we shall have excluded other key stakeholders.

(Applause)

We work for this nation, and it is not a matter for political parties or who wins what debate. Anybody can win the debate, but we will not have carried the people with us. Therefore, I am proposing that under Standing Order No.21, we adjourn this debate to another day so that we can have greater consultation and more cohesion. That is really what we are looking for.

Mr. Temporary Deputy Speaker, Sir, we know that, we are looking for a better solution for this country. We cannot proceed in the manner that we are proposing if, indeed, our intention is to write a Constitution for the whole nation. It will not be a Constitution written by Parliament. Therefore, I beg to move that, we adjourn this debate under

Standing Order No.21.

The Temporary Deputy Speaker (Mr. Musila): But, Mr. Kibaki, hon. Raila has hardly moved his Motion. I think your point of order should have waited until I propose the question. There is no question proposed. So, could we let hon. Raila continue?

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

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Orengo! I have not even proposed the question!

Mr. Orengo: I am seeking your guidance!

The Temporary Deputy Speaker (Mr. Musila): Order! Let us hear hon. Orengo!

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, I am seeking your guidance. This is a matter in which the House should build consensus. You are aware that, not long time ago, when hon. Oloo-Aringo tried to bring a Motion urging Parliament to take action

on a certain line, hardly before he moved the Motion, there were expressions from both sides of the House that there needed to be consultation. In fact, the Motion had hardly been moved by hon. Oloo-Aringo. The Chair agreed with the sentiments of the House and advised hon. Oloo-Aringo to stand the Motion down, so that we could build consensus. So, we should not use double standards. I want to assure our friends across the other side, that we actually agree with the substance of the Motion, but we want to give the political leaders ample time. The President has already indicated that he would like to meet political leaders on this very issue.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Orengo!

Mr. Orengo: Just a moment! I am just about to finish!

The Temporary Deputy Speaker (Mr. Musila): Order! As a matter of fact, you are debating on a Motion that is not there! Mr. Raila hardly said anything! I did not even propose the Question! Could you let hon. Raila speak? I will hear him and then---

(Mr. Orengo stood up in his place)

Could you sit down? We have had enough!

Mr. Orengo: Just get my point!

The Temporary Deputy Speaker (Mr. Musila): We have heard your point! Anyway, what is your point of order?

Mr. Orengo: My first point is this: The last time hon. Oloo-Aringo tried to move a Motion---

(Loud consultations)

Under the Standing Orders, it is---

The Temporary Deputy Speaker (Mr. Musila): Which one?

Mr. Orengo: It is Standing Order No.21 as read with Standing Order No.45. It is not just a question of adjourning a Motion. You can actually adjourn business. You can say that you are adjourning the business or a particular Order in the business. So, all that we are asking is, the business appearing as Order No.7 should be adjourned until there are more consultations. There are some people who have said that they would like dialogue. You can see that these particular gentlemen do not want dialogue. That is why you are misleading President Moi because you do not want dialogue. He has said that he would like to talk with Opposition leaders!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Orengo! I think we have heard you!

Proceed, hon. Raila!

(Mr. Orengo stood up in his place)

Would you sit down? I order you to sit down!

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We are seeking guidance from the Chair regarding Standing Order No.21 (i), which reads as follows:-

"A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move "That, the debate be now adjourned", or, in Committee of the whole House, "That, the Chairman do report progress."

This is what the Standing Order stipulates, but we also refer you to Standing Order No.1---

[The Temporary Deputy Speaker

(Mr. Musila left the Chair)

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker: Order! Hon. Members, let us be quite clear on what we are talking about. We are talking about a Motion which is in the process of being moved. If you want that Motion to be adjourned, you do it under Standing Order No.21. But there is no Motion until the question has been proposed. However, if you want to adjourn the House, then you do it under Standing Order No.23. That is the difference! When hon. Oloo-Aringo stood up last time, he sought the adjournment of the House. I allowed him to do it under Standing Order No.23. So, there is no Motion before us until it has been moved, seconded and proposed, then an hon. Member can stand to request that the Motion be adjourned. So, we shall proceed on those lines.

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. I now wish to move, under Standing Order No.23 (i), that, this House do now adjourn!

Mr. Deputy Speaker: Order, Mr. Murungi! Let us understand each other! Hon. Kibaki sought to adjourn debate on the Motion. I am saying that if he does it at the right time, I will allow him to do it. But you cannot superimpose another Motion on another one! So, the Motion must be put properly, and then I will allow you to move any number of Motions!

Mr. Murungi: Mr. Deputy Speaker, Sir, we have already disposed of hon. Kibaki's Motion! I am moving another Motion as hon. Murungi, and not as hon. Kibaki, that, this House do now adjourn for the same reasons that hon. Kibaki gave! There is need for more consultations because this is a very important Motion! We need to be consistent in this House! Hon. Oloo-Aringo moved a Motion like this! This is a very serious matter! We want fairness and justice in this House!

Mr. Deputy Speaker: Order, hon. Murungi! If you do not have respect for the Chair, we have no business being in this House! I want you to know that I will not allow you to stand there and lecture me on justice and order! I am here to guide the House! I am saying this; that, hon. Kibaki moved a Motion, but it was moved at the wrong time. I am saying that if the Motion that hon. Raila is moving has been seconded and the question proposed, it can be taken up. But I will not allow you to move another Motion when there is one which I have ruled technically out of order now! You know that you are doing yourself no service or favour, because I have the discretion to propose the question. Now, if you are quarrelling with me, and you are asking me to exercise my discretion, we are not making any progress! I want us, as the House, to go on this matter together! I agree with you that we want consultation and unanimity, but let us do it properly.

Mr. Anyona: Mr. Deputy Speaker, Sir, the matter of the Constitution is a grave one and the final responsibility of resolving the constitutional crisis in this country must lie with the people. Therefore, it would be unfortunate if, in the quest for a solution to this issue, we start by creating further controversies. I was away for the whole of last week. I know that there were some consultations going on. We even had consultations at Arusha amongst ourselves. We even met the President and told him that we would like to resolve this problem amicably.

[Mr. Deputy Speaker left the Chair]

[Mr. Speaker resumed the Chair]

In fact, I remember the words of the President when we met. He said, "Let us do it without controversy". When this matter came up this morning, there were some consultations and there was a general feeling that, today, we should allow hon. Members to consult further to see if we can arrive at some consensus on the amendment that was being proposed. In fact---

Mr. Speaker: Order, Mr. Anyona! I think what you are doing is what the Deputy Speaker had refused. You are giving reasons as to why this Motion should not continue and the Deputy Speaker had overruled that. As he did say, we cannot adjourn a Motion unless the Question is before the House. But much more important, there is a very strange phenomenon getting into the House, which must be nipped in the bud. The phenomenon is that when hon. Members do not like a certain Motion and they do not have the requisite numbers to defeat it, they become chaotic in order to disrupt it. That will not happen! We will not have rule by intimidation. We will have orderly conduct of the Business of this House in accordance with the rules of this House. May I also say this; whether an hon. Member likes it or not, if a Motion has been approved by Mr. Speaker and comes to the Floor of this House, the only way you can hit it is to vote against it. That is what democracy demands. It is not intimidation, and it is not rioting. So, can we have the rules of the House complied with, now and always? We will never build Parliament by ganging up to stop a Member from moving a Motion. The only way you can express your hatred towards a Motion is by voting against it. It is

perfectly legal for you to vote against a Motion, but you cannot heckle!

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

Mr. Speaker: Order, hon. Orenge! May I again plead the hon. Members in the following terms; when we say we need democracy in the country, it must begin from here. When we say that there must be freedom of speech, it must begin from here. If we say that hon. Members must not be barred from expressing their own opinions, we must begin from here. You cannot be a democrat and a dictator at the same time! They are incompatible! The two terms are completely incompatible with one another.

Proceed, Mr. Raila.

Mr. Orenge: On a point of order, Mr. Speaker, Sir. Just for the record of this House, could you give us some guidance here, so that it goes on record that nobody has tried to intimidate anybody in the House? In fact, nobody has tried to cause any chaos in the House. If anybody causes any chaos in the House, you should rule accordingly, according to the Standing Orders. I think we will be judged harshly by history that a statement like that will go on the basis that there was an element of intimidation--

Mr. Speaker: Order, hon. Members! May I just say this: I was listening to the proceedings of this House in my office. Hon. Musila was on the Chair. I could not, of course, see the demeanour of the persons talking, but I could even hear the Chair being heckled! If that is not intimidation, then what is intimidation? What we have to do is to be gentlemen and democrats. You should listen to the view of the other person, however much you detest it, and vote against it. Proceed, Mr. Raila!

(Several Hon. Members stood up in their places)

Mr. Speaker: Order, hon. Members! I will have no further points of order. Proceed, Mr. Raila!

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

Mr. Speaker: Overruled!

(Several hon. Members sang the National Anthem at the Bar and withdrew from the Chamber)

Mr. Speaker: Order, hon. Members! It does appear to me quite clearly that a section of the membership of this House has no interest in the rules of the House and democracy but in gangsterism.

(Applause)

Let me add further that I do not think that it is in the interest of this country that we intimidate and force an issue rather than vote for it. If you do not like it, vote against it. If you do not have the numbers necessary, that is too bad for you! Democracy is about numbers! Can we hear hon. Raila, please?

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

Mr. Speaker: What is it?

Mr. Waithaka: Mr. Speaker, Sir, I would like to seek the guidance of the Chair because when we came here, hon. Kibaki moved a Motion under Standing Order No.21.

(Loud Consultations)

Mr. Speaker: Order! Can I hear him? What is it?

Mr. Waithaka: This intended Motion by hon. Kibaki was ruled not to be in order because it was brought under the wrong Standing Order. I want to seek guidance whether somebody else has a right to move a Motion under Standing Order No.23 as hon. Kiraitu attempted and he was not allowed by the Chair because of heckling. If we are saying that every Member has a right to be heard, because you cannot be a dictator and a democrat at the same time, the way the Chair is trying to be---

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

Mr. Speaker: Order! Order, Members! We now see the democrats at work and they expose themselves really for what they are - people who cannot honestly stand reason. The hon. Deputy Speaker did correctly point out the difference between a Motion under Standing Order No.21 and Standing Order No.23. He did say correctly, in my view, that if anybody wanted to present a correct Motion under that Standing Order, he was prepared [**Mr. Speaker**] to listen to that; that is, presenting a correct Motion in accordance with those provisions. So, I will not rule on that. I

have a hypothetical issue because hon. Murungi is not even here. Is he? I do not have any Motion. Not on this table.

Proceed!

Mr. Raila: Mr. Speaker, Sir, I---

Mr. Murathe: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Sorry, Mr. Murathe. We must now proceed!

Mr. Murathe: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order! May I say this: I am not going to have points of order become the business of the House. So, it will not be. Now, if you want to be on a point of order, under what Standing Order are you raising it?

Mr. Murathe: Mr. Speaker, Sir, under Standing Order No.23. Is it procedural for this House to seek to have a Select Committee whose numbers are more than the numbers---

Mr. Speaker: Order, Mr. Murathe! You honestly have misdirected your mind. Wait until the matter is before the House.

Proceed!

Mr. Murathe: Mr. Speaker, Sir, but---

Mr. Speaker: Order! I will now throw you out! Proceed!

Mr. Murathe: Mr. Speaker, Sir, there is no point of debating something that we have no point---

Mr. Speaker: Order, Mr. Murathe! It is not up to me to know whether the Motion as passed will be of any consequence or not. What I am concerned about is, is it validly before the House or not? The truth of the matter is that it is before the House. If it is passed and you want to make it of no consequence, please, proceed. That is your business, not mine. Proceed!

Mr. Murathe: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, Mr. Murathe! You will now leave. If you proceed further, we will deal with you. Now, please, keep peace. Proceed!

Mr. Murathe: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Sorry! You are out of order!

Mr. Raila: Mr. Speaker, Sir, I would like to move this Motion with a very clear conscience. It is unfortunate that some hon. Members of this House have seen it fit to move out of this House before I was given an opportunity to move this Motion.

Mr. Speaker, Sir, however, the Motion I am moving is the original Motion which I read, and it is asking the Attorney-General to convene a meeting of all the stakeholders with a view to resolving the stalemate. No amendment is as yet before this House and that is the reason why I said it is unfortunate that some Members have deemed it fit to walk out of this House. I know that Constitution-making needs consensus, and that there is need for consultation across the board. That is the reason why, before I moved this Motion, I had taken pains to invite all the hon. Members of this House to consultative meetings.

(Applause)

Mr. Speaker, Sir, the purpose of those meetings was for Members to discuss informally and agree on this Motion before it was moved in the House. Unfortunately, some Members have seen it fit to boycott those meetings and that is the reason why they are now asking for more time for consultations. If they had come to those meetings, the issue that they are raising today would not have arisen. I want this debate to be national and not regional. I want this debate to be patriotic and not partisan because we are talking about a Constitution for all the people of Kenya. This country is today at crossroads. We need to chart a way forward. It behoves this Parliament, as an august assembly of this country, to give directions in this process.

(Applause)

Mr. Speaker, Sir, I would like here to quote Shakespeare in his book "*Julius Caesar*" when he says:
"There is a tide in the affairs of men which, taken at the flood, leads onto fortune; omitted, all the voyages of their lives are bound in shallows and miseries".

On such a sea, we are now afloat and we must take the current at the tide or we lose our venture. It is important we do take some bold steps, and I wish to say that we should not waste time in trying to apportion blame as to who is responsible for what. This is because if we do that, we will lose direction.

Mr. Speaker, Sir, here again, I would like to quote Winston Churchill, 60 years ago, when he was taking office. He said the following, and I quote:

"If we open a quarrel between the present and the past, we shall be in danger of losing the future". So, we should not try to apportion blame as to who has been responsible for what we have today. Let us chart the way forward.

(Applause)

I know that some very unfortunate remarks have been made from across the board. There has been a tendency to try to downplay the role of the civil society. I want to say that this will not help this process. We must accept that the civil society has an important role to play, not only in the Constitution making process, but in the development of this country. Equally, there have been remarks from the civil society which have tended to demean this House; remarks that Parliament is an intellectual graveyard. These kind of remarks will not help to create that kind of goodwill that is desirable if we are to move forward as a nation.

Mr. Speaker, Sir, the Constitution-making process in this country is long. It has taken a long time and we have had several false starts. The late Tom Mboya, while seconding a Motion that was introduced by the then Attorney-General in this House in 1967 said this and I quote:

"Today marks the end of a long constitutional journey".

He was to be proved wrong. That was not the end of a constitutional journey but one of those other false starts. We have now reached a state where some consensus was building. Before the 1997 General Elections, we went to the streets of Nairobi. We were escorted by thousands of Kenyans who wanted constitutional change.

Our clarion call then, was that: "No, reforms, no elections"! Thousands of Kenyans heeded our call. We met the police with truncheons. No amount of batons, no amount of tear gas would stop Kenyans from demanding what was their right.

As the society was polarised, the clergy came in-between to broker mediation and the result was the IPPG package. Some of us, particularly in the NDP, did not trust the IPPG because they said that, they were intending to short-change the reform process. When the package was finally announced, we said that it amounted to too little, too late, and that they were not going to help us create the level playing field that we wanted before elections.

So, time has proved us right. Some of the hon. Members who have walked out today were those who were bandied to the County Hall and called us extremists during those days. After the elections, we decided to make a new start. We realised that it was necessary to get everybody on board. It was necessary, in this very crucial exercise, to have some kind of co-operation. Through that, we were able to review the Constitution of Kenya Review Commission Act, which was then passed, and then given assent by His Excellency the President. However, we have had problems since that time. Before that happened; we formed the IPPC; we went to the Bomas of Kenya; we went to Safari Park Hotel, and ended with a Sulumeti Committee, which drafted the amendments and which were submitted to the hon. Attorney-General, and they were brought before this House.

Mr. Speaker, Sir, when we moved to the next step of trying to appoint Commissioners, then again we hit a deadlock. Several stakeholders, and for record purposes, it was not only political parties, because we had problems across the board--- I remember even the Women's Political Caucus and even the protestant churches had problems in nominating their representatives to the Commission. So, we have spent one full year, thereafter, shadowboxing. Later on, it was not just a question of representatives to Commission versus whether this process should be people-driven, or it should be Parliament-driven. For record purposes, I want to state here that, the stand of my party is that, the process of reviewing the Constitution of this country must remain people-driven.

(Applause)

We believe that, after 36 years, the people of Kenya must be given an opportunity to show where the shoe which they have worn pinches. That is the reason why we are talking about a people-driven constitutional process.

Mr. Speaker, Sir, we have asked the Attorney-General to convene a meeting of stakeholders in order to end the stalemate. This is because we have had some kind of problem with this Act as it is. The Constitution of Kenya Review Commission Act, which was passed by this House, has certain problems. First, it is a constitutional "orphan". It is a constitutional orphan in the sense that it does not fall within the three wings or organs of Government. It does not fall under the Judiciary, the Legislature or the Executive. When we ask the Attorney-General to convene the meeting of stakeholders, we are actually surrendering authority to the Executive, because the Attorney-General is an appointee of His Excellency the President. So, this is something that needs to be addressed. Let us not behave as if we are inventing a country today. This country has existed as an independent country for 36 years, and the constitutional review process is not unique to this country. Over the last ten years, very many countries on the Continent of Africa have reviewed their constitutions, and we have a wealth of resources to draw from. Mozambique, after several years of

civil war, reviewed her constitution through a commission that was set up by FRELIMO Party. That constitution was then discussed with RENAMO in Rome and was finally approved. It is the constitution that is currently operating in the Republic of Mozambique. Tanzania has just completed a review, and the previous day, the President of Tanzania received a report from the constitutional review commission which was appointed by the President. Zimbabwe has done the same, or is in the process of doing the same. South Africa did the same. South Africa's commission, for the information of the House, consisted 100 per cent of Members of Parliament. That commission of 44 members was chaired by the Secretary General of the African National Congress, Mr. Cyril Ramaphosa.

However, in this country, we have said that we want to involve other stakeholders. That is why we came up with this Act, and we want to move together. What we are doing is also unique to this country because of our unique historical experience. We would like to hinge this Commission somewhere. It must answer either to the Executive, to the Legislature or the Judiciary. But once it is harnessed, then this Commission should move out and collect views of the people and process it the way it has been envisaged in the Act. I would like to urge the Attorney-General to convene a meeting of stakeholders so that this issue can be discussed and resolved, so that this process can move forward.

Mr. Speaker, Sir, another important thing is that we should try to delink the review process from the succession politics and elections of 2002. There are those people who are saying that we do not need to review this Constitution now because it is the one that ensures that President Moi goes. As a leader of a political party, I would also like to see President Moi go, so that I can take over and become the President of this country. But that completely misses the point. The issue is not about one individual; we are trying to write a Constitution for this country for now and for posterity. There are those who say that we should now just gang up as a community so that we can capture the Presidency. I know there are those who do not want to see the Presidency watered down. They want to inherit it with all the powers that it has today so that they can then change at their own time. These people are enemies of the people of Kenya.

(Applause)

Mr. Speaker, Sir, these people are killing Kenyans. They must understand that the country consists of 42 different ethnic communities, and that no single community can arrogate to itself, the responsibility of speaking on behalf of the rest of the tribes. So, we must be disabuse ourselves of the ethnic belonging. Let us rise above ethnicity and think as Kenyans. We have children, who are Kenyans. Even the El Molo people have got children; as the smallest community in this country, the El Molo have their rights. So, those who walked out in protest of a very important Motion like this one have completely missed the point. They think that they can blackmail this country into their position.

I would like to quote a famous politician who said: "I may disagree with what you have to say, but I shall defend unto death your right to say it". Now, why do those democrats not want to sit and listen to what I have to say, so that they, too, can rise up and disagree with me? As I said, that is unfortunate. However, we want to carry everyone on board.

With those few remarks, I beg to move. Hon. Munyasia will second the Motion.

Mr. Munyasia: Mr. Speaker, Sir, the stand of my party, FORD(K), is for dialogue. We have said that we shall keep our ears open, and discuss whatever efforts any party brings forward to help improve this country. It is in that light that I stand to second this particular Motion.

(Applause)

I would like to say, right from the beginning, that the NDP's effort is laudable. By January this year, the President had already assented to the Constitutional Review Commission Act, but up to now, we are not moving. So, all of us, and the nation, are impatient. Parliament must not be seen to have failed. It must take the initiative to put that process on course.

Mr. Speaker, Sir, we made a mistake last year because we wanted to give a hearing to all the stakeholders. We listened to them at the Bomas of Kenya and at Safari Park Hotel. Thereafter, we formed the Sulumeti Committee to collate the views raised at those fora and come up with recommendations that would enable the enactment of an Act of Parliament. We did not give that Committee any time limit within which to complete its work. So, the members of that Committee met as many times as they found it necessary, and came up with recommendations. We were called again at Safari Park Hotel, where all the stakeholders said that those were good recommendations. So, when the recommendations were brought to this House, we treated them with reverence, which was a mistake. Parliament must not treat recommendations from pressure groups with reverence.

(Applause)

This House passed those recommendations as they were, and now they are unworkable. Now, the same so-called "stakeholders" blame the stalemate on us. The insults we have received following this stalemate are very demeaning to this House. You have already heard that this House is an "intellectual graveyard"; that, the current crop of Members of Parliament cannot be trusted to do anything; that, MPs are compromised, and so on. I think that this is an opportunity for us to now stand up and say: "No, we are not compromised".

Mr. Speaker, Sir, I wish to support the efforts made by a number of hon. colleagues here, as an individual, with a view to breaking the stalemate. There have been attempts to reach consensus outside this Chamber. Some meetings towards that end were held in the Old Chamber before we went to Mombasa for the seminar on AIDS awareness; similar meetings were also held in Mombasa. Thereafter, we held three other meetings here. All that effort was aimed at reaching a consensus on the constitutional review process. So, the debate on this Motion is supposed to improve that particular effort and cap it with consensus. So, I think anyone who moved out of this House in protest was mistaken. I wish to say that this is our effort, and that we have exercised our constitutional right. Legislation making is our business, and this Motion should be supported. With those remarks, I beg to second.

(Question proposed)

**MOTION FOR THE ADJOURNMENT
UNDER STANDING ORDER NO.21**

ADJOURNMENT OF DEBATE

Mr. Katuku: Mr. Speaker, Sir, under Standing Order No.21(1), I would like to move that we adjourn this Motion to a future date to allow further consultations. This is because the matter which is before us is so serious, and if we proceed in the manner in which we are doing now, in my own wisdom, we are tearing this country into pieces.

(Loud consultations)

I have a right to be heard, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! Do you remember what I have just said? Democracy is the ability to listen. So, hon. Members on my right hand side, would you listen?

Proceed, Mr. Katuku.

Mr. Katuku: Mr. Speaker, Sir, I am very happy for your advice to hon. Members, who do not want to listen to me. The fact of the matter is that I have a right under Standing Order No.21(1), which says:

"A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move "That, the debate be now adjourned", or, in Committee of the whole House "That, the Chairman do report progress".

I feel that there is need to postpone this matter to allow further consultations. Maybe, this matter can be brought to this House later on for debate.

Mr. Speaker, Sir, with those few remarks, I beg to move.

Mr. Waithaka: Mr. Speaker, Sir, I would like to second the Motion moved by hon. Katuku. I would like to state that there is one phenomenon that we, as hon. Members of Parliament, should understand. We are talking about reviewing our Constitution and it seems that there is general consensus that it should be "people driven" and not "Members of Parliament-driven".

An hon. Member: Then resign!

Mr. Waithaka: Mr. Speaker, Sir, this is because it has already been indicated that hon. Members and political parties need to consult.

Hon. Members: To consult over what? Wacha!

Mr. Speaker: Order! Mr. Waithaka is an hon. Member of this House and has the right to be heard, and he will be heard! So, proceed, Mr. Waithaka!

Mr. Waithaka: And you will listen! Mr. Speaker, Sir, I am actually an hon. Member of Parliament per excellence, and on a FORD(P) ticket. So, I am talking on behalf of the people of Kinangop Constituency. So, you must

listen to what I am saying.

We are saying that even the President of this country has been encouraging people to enter into dialogue. When we were in Mombasa, he indicated that he was in dialogue with hon. Kibaki, who confirmed that. He even said the other day that one day, they will talk. The Democratic Party also had the same thought; they also want to enter into dialogue. Everybody is talking about this "animal" called dialogue, which is a good thing. Why can you, hon. Members, if you really do not want to tear this country into pieces--- Even if this Motion of our friend, hon. Raila, is derailed until next week, it will not cost this country and hon. Members a lot. This is simply because it will derail for a week to get the substance of what we have been clamouring for. You know the number of days we spent at Bomasa of Kenya and Safari Park Hotel, trying to dialogue over our Constitution. My friends in the ruling party, why can you not give us one or two weeks to dialogue? This will not cost you anything.

Hon. Members: No! No!

Mr. Waithaka: Mr. Speaker, Sir, with those few remarks, I beg to second the Motion.

Mr. Speaker: Order! I see absolutely no reason why you should heckle the Member when he is asking you for dialogue. You should listen. If you disagree with him, catch my eye and tell him that you do not agree with him. There is a Motion validly before the House and I have no alternative but to propose the Question.

(Question proposed)

The Vice-President (Prof. Saitoti): Mr. Speaker, Sir, we have spent a substantial amount of time before hon. Raila could move this Motion. Now it is, indeed, true that we do have the Motion for Adjournment before the House. Quite clearly what we are reading is the fact that some people do not want us to deliberate on this Motion. May I bring to the attention of this House and, indeed, to the Kenyan public, that some of the people who moved out of the House were in the Sessional Committee yesterday, when it was proposed that this Motion be brought today, but they kept quiet. They agreed that this Motion be debated today.

We are being asked for consultation. Yesterday evening, there was a meeting of all the Parliamentarians. First, there was one in the morning, but they refused to turn up. They also refused to turn up for the one in the evening. If they wanted dialogue, why did they not turn up in the morning? Why did they not turn up in the evening? Now that Parliament wants to break this stalemate, they do not want to move. I want, therefore, to oppose the adjournment of this debate because this is buying time, and keeping the wananchi of this country in abeyance, now that a solution is being found. Even if they have got other solutions, they can amend this Motion. Why do they not use the democratic right to do so here on the Floor?

Dr. Kituyi: Mr. Speaker, Sir, there are times we can be hitting on to a good idea, but we do it the wrong way. There are times when we are excited by a desire to move along and we make sacrifices that will be very difficult to compensate for. I am not in any way expressing an opinion about the substance of this Motion. I am as desirous for a solution to this challenge as any other Member of this House. The biggest challenge that this Parliament faces today is not that the constitutional review process continues, but that the dignity of this House is recultivated, and that our standing as an institution in this country regains its honourable position. That cannot be done by a majority. That is done by all of us, including some that are irritant to us.

This Parliament has a historical responsibility to facilitate the constitutional review process. To do that,

this Parliament must be perceived to be moving in tandem particularly, the critical stakeholders within Parliament. We might be hitting on to a good thing, but I fear if we are not ready to bend over backwards and accommodate even those who are being very sluggish in this process, we will hurt our own self. We have to find a way of making those who are being reluctant save the responsibility they have to build consensus. We should not ignore it because we want to move quickly. If we have dragged our feet for one year, there is nothing wrong with delaying one week.

I beg to support.

Mr. Speaker: Do you not think I should dispose of this matter?

Hon. Members: Yes! Put the Question!

Mr. Speaker: Let us listen to one more Member. Mr. Kirwa!

Mr. Kirwa: Mr. Speaker, Sir, I beg to support that we do adjourn. As a number of reference, we have taken 11 months to think of this particular Motion. If it has taken that long, why can we not wait for one more week? Why do we prefer management by crisis? It is clear that what we are doing is just to pretend we are in charge of the stakeholders and, therefore, there are junior partners in this particular business.

Mr. Speaker, Sir, I stand here to alert the political parties that, while we are singing democracy, there is a situation that is creeping in, not into this particular House, but into various political parties, where they have it upon

themselves to feel that consultation is not important, and only a few people bring some of these ideas and say: We are going this way and the rest of us are supposed to follow suit. We removed dictatorship from outside, but we are now bringing it into various political parties.

Mr. Speaker, Sir, this Motion, as it is, will be a sterile Motion unless we allow the goodwill, not only of other political parties, but of all individuals involved. The rest of Kenyans must also accept that what we are doing is in conformity with the wishes of the rest of the country.

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

Mr. Speaker: Last one, Mr. Anyona. You have to be very brief because you have only one minute.

Mr. Anyona: Mr. Speaker, Sir, I think the important thing to underscore here is that this Parliament, really, on a matter of this kind, must act in unison as far as possible. Therefore, the principal point is to build consensus as much as we can. That is why when we got caught up in the procedural problem of seeking an adjournment to create that consensus, we could not do so, because the question

had not been proposed. I would, in principle, have supported the adjournment. In fact, that was the feeling of the House, but, unfortunately, when a section of the House moved out, the purpose of that adjournment does not now exist.

(Applause)

Mr. Speaker, Sir, since there is not much time left, what I would like to propose is: As we come to the end of this debate today, we reflect over this coming weekend - and unfortunately, it is a Jamhuri weekend - so that, we come here next week, and that all of us, in full strength as hon. Members of the Parliament of this Republic, sit here together and find consensus as to the way forward. Even to take a vote on whether or not we should adjourn now, that in itself is negative. My appeal is that we reach the end of this debate today---

Mr. Speaker: Order, Mr. Anyona! I must now put the question because whether it is carried or not, is immaterial.

Mr. Anyona: Mr. Speaker, Sir, with those few remarks, I beg to support.

(Question put and negatived)

(Debate on the original Motion resumed)

The Assistant Minister for Local Government (Mr. Affey): Mr. Speaker, Sir, given that this Motion is very important, I will request that, you use your discretion to increase the sitting of this House up-to 1.00 p.m.

ADJOURNMENT

Mr. Speaker: Order! I do not use my discretion, but I act on Motions. The Standing Orders say that on this particular day, our business will be interrupted at 12.30 p.m. without question put, unless there is a Motion before the House to extend the time. And since there is no Motion, we must now adjourn the House to this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.