

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 4th February, 2009

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

APPROVAL OF INCREASE OF
TOTAL INDEBTEDNESS

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance
(Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, pursuant to Section 6(1) of the External Loans and Credit Act, Cap.422 of the Laws of Kenya; this House approves the increase of total indebtedness for the time being outstanding in respect of principal amount of money borrowed or credit obtained under Section 2 of the Act from US\$6.3 billion (Kshs500 billion) to US\$10 billion (Kshs800 billion).

QUESTIONS BY PRIVATE NOTICE

DISMISSAL OF MOSES
KIYIER FROM KENYA
AIR FORCE

Mr. Shakeel: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Defence the following Question by Private Notice.

(a) Could the Minister explain the circumstances under which Senior Private Moses Otieno Kiyier (Service No.107099) of the Kenya Air Force was dismissed from service?

(b) Why has the Ministry taken so long to respond to an appeal lodged by the officer?

(c) Could the Minister consider reinstating the officer?

Mr. Deputy Speaker: Hon. Members, the Minister of State for Defence, hon. Haji, is out of the country. His Assistant Minister, Maj-Gen. Nkaisserry, is also out of the country.

Hon. Members, there is a request from the Ministry for this Question to be put on the Order Paper next week when the Minister or the Assistant Minister will be available. In the circumstances, I direct that this Question be put on the Order Paper next week.

Hon. Musila, I have a communication from your own Ministry by none other than the Permanent Secretary's office. So, this is a different note! Will you answer the Question now?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Deputy Speaker, Sir, I apologise for that. I will be ready to answer this Question tomorrow afternoon.

Mr. Deputy Speaker: You will be ready to answer this Question tomorrow?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Yes, Mr. Deputy

Speaker, Sir.

Mr. Deputy Speaker: So, the Question will be listed for tomorrow afternoon.

(Question deferred)

OUTBREAK OF FOOT AND MOUTH
DISEASE IN SAMBURU EAST

Mr. Letimalo: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Livestock Development the following Question by Private Notice.

What urgent steps is the Minister taking to contain the spread of Foot and Mouth Disease, which has broken out in Samburu East District?

The Minister for Livestock Development (Dr. Kuti): Mr. Deputy Speaker, Sir, I have already consulted with the hon. Member and I have informed him that the answer I got is not adequate and satisfactory. I have already communicated to the hon. Member that, by next Wednesday, I will provide the House with a satisfactory answer.

Mr. Deputy Speaker: Hon. Member, are you in agreement?

Mr. Letimalo: Mr. Deputy Speaker, Sir, I have no objection.

Mr. Deputy Speaker: The Question will be on the Order Paper on Wednesday afternoon, next week.

(Question deferred)

EXPENDITURE ON TREATMENT OF
KIAMBAA CHURCH FIRE VICTIMS

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

(a) Could the Minister confirm how much money has been spent on the treatment and education of children injured in the arson attack at Kiambaa Church at Kapseret Division, Wareng District?

(b) What steps is the Minister taking to provide the Kshs30 million needed by these children as cost of plastic surgery treatment that they require?

The Minister of State for Special Programmes (Dr. Shaban): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government of Kenya has spent Kshs1,863,275 on treatment of the children injured in the arson attack at Kiambaa Church in Kapseret Division, Wareng District. However, no expenses have, so far, been incurred by the Government on their education.

(b) The Ministry is not taking any steps to provide the Kshs30 million needed by the Kiambaa children injured in the arson attack at Kiambaa Church since this is purely a private initiative by well wishers who wish to raise the said amount to have the surgery performed in the USA.

Ms. Chepchumba: Mr. Deputy Speaker, Sir, I want clarification from the Minister as to why the Government is not taking responsibility to provide the amount of money that is required by these children for plastic surgery. Why should it be a private initiative? Why is the Government not providing this?

Dr. Shaban: Mr. Deputy Speaker, Sir, thank you for that question. Firstly, the Government took care of the treatment of those children. Secondly, the children require plastic surgery. I believe that in the country, we have doctors who can perform plastic surgeries at affordable costs.

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to

suggest that we have proper plastic surgeons in this country when she knows very well that there are no qualified plastic surgeons in public hospitals? We are also bringing in a team of seven burns specialists from India.

Do you think that the children who were injured in that tragedy are of a lesser god than the people who were injured in the tanker accident? It is appropriate for the Minister to kindly ask the six surgeons who are coming over also to treat those children. Could the Minister, please, check---

Mr. Deputy Speaker: Hon. Shakeel, it is Question Time! Ask your question!

Mr. Shakeel: Mr. Deputy Speaker, Sir, could the Minister, please, inform us why there are no burns specialists at the Moi Referral Hospital, Eldoret, or at the Kenyatta National Hospital? Could she also confirm that the six doctors who are coming from India will treat those children as well?

Mr. Deputy Speaker: Are you a medical surgeon?

Dr. Shaban: Mr. Deputy Speaker, Sir, I am not, but coming from a medical background, maybe, I can sensitise the hon. Member on how well certain things can be done in the country. I have worked in the Public Service. I know there are a few plastic surgeons in this country.

At this particular time, we are asking for help simply because the number of people who have suffered burns is overwhelming and we cannot cope with the amount of work. Otherwise, the Director, Kenyatta National Hospital, was ready to set up a team of doctors to assess the children during the coming school holidays and make sure that they can now move on to the second phase.

With regard to whether these children are of a lesser god, that is not true. They are children like any other in this country. That is why the Government has spent over Kshs1.8 million taking care of these Kenyan children and making sure that they are fine. As to the second phase, I wish we could put our heads together. If the well-wishers have decided to raise funds to take the children to the USA, people are welcome to help in this particular initiative.

Mr. Njuguna: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to ask the Minister one question. Could she inform the House the hospitals which these children were taken? How much was the bill? Did the Government fully pay those bills?

Mr. Deputy Speaker: I thought the Minister had answered that bit. Proceed, Madam Minister!

Dr. Shaban: Mr. Deputy Speaker, Sir, the children were treated at the AIC Kijabe Mission Hospital. The Government paid an initial amount of Kshs800,000, followed by another Kshs1.06 million. The payments were as follows: Mary Wandia spent Kshs406,730; Anthony Njoroge Mbutia, Kshs530,545; Mary Wahito Kariuki, Kshs475,610; and Mary Wanjiru Njenga, Kshs450,390.

Mr. Deputy Speaker, Sir, to make sure that the healing process was faster, the Ministry of State for Special Programmes also paid rent for their parents, so that they could be near their children. They were able to see the children in hospital through our intervention. They are in school. The Faulu Kenya paid one month's school fees last term. This term, we are going to continue paying the school fees. We are just waiting for the invoice from the academy where they were taken.

Mr. Thuo: Mr. Deputy Speaker, Sir, I have two remarks to make. First, the Minister has said that the initiative to raise funds to take these children to hospital is a private initiative. Secondly, there are no plans by the Government to spend more money on the children. This bothers me a little bit. She has said that the children can be treated in Kenya at a lesser cost. However, as we welcome that private initiative, what is the Government's role in this subsequent treatment that will help the children to get over their burns and restore them as close as possible to a normal life?

Dr. Shaban: Mr. Deputy Speaker, Sir, as I said earlier, we were already involved in the treatment of these children. In the good spirit of Kenyans, people have joined in to assist in treating these children. That is welcome. However, we knew that we were going to move to the second phase of treating these children. Counselling of the children has been going on. So much more has been done although not captured by cameras and newspapers.

Mr. Nyambati: Thank you, Mr, Deputy Speaker, Sir. First, I want to thank the hon. Minister for the good work she is doing. I am one of the beneficiaries of the IDP programmes. I wanted to know from her what she is doing to help the other children who suffered the same fate in the country. How many children do we have in the country facing a similar problem? I know that in Kisii, there are several children with the same problems. I would like to know the number of children that need this kind of help and what she is doing to assist them.

Dr. Shaban: Mr. Deputy Speaker, Sir, we are only aware of the people who suffered during the Kiambaa Church incident. Those are the only ones we are aware of. There are other people who were undergoing treatment as they were being taken to hospital. The Government incurred a lot of expenditure to make sure that people are as healthy as possible. If there is any other case that we have not taken care of, we would like it to be brought to our attention, so that we can deal with it.

Ms. Chepchumba: Mr. Deputy Speaker, Sir, I also want the Minister to clarify if the Government has carried out any positive investigation on the cause of these incidents?

Dr. Shaban: Mr. Deputy Speaker, Sir, there have been various investigations going on, not only for that particular one, but also in all the cases where people have suffered the same fate. Some cases have been filed and some of them are going on. Therefore, I know that the Government is busy investigating these issues.

ORAL ANSWERS TO QUESTIONS

Question No.404

VALUE OF PROPERTY DESTROYED DURING POST-ELECTION VIOLENCE IN KISUMU

Mr. Olago asked the Minister for Trade:-

- (a) what the total value of business premises and merchandise destroyed in Kisumu Town during the 2007 post-election violence is;
- (b) whether the Government could consider assisting the traders in restocking and restoring their premises and further encourage their respective insurers to make ex-gratia payments to assist them.

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

(a) The total value of business premises and merchandise destroyed in Kisumu during the post-election violence was approximately valued at Kshs1.09 billion. This is an estimate based on the initial assessment. It is important to note that the figure of Kshs1.09 billion is an approximation due to the following reasons:-

First, not all the businesses damaged either partially or totally could produce proper duplicated business records. Over estimation of value destroyed was noted due to the expectations of compensation. Many business owners could not be accessed since they had fled the area to escape the post-election violence. Their input, into the exercise, therefore, could not be obtained. Values were, therefore, estimated and the exact values not captured at all.

(b) I am consulting with the Government on the possibilities of accessing the business premises that were affected in all areas.

This Question was asked last year. I am glad to inform the House that I worked on a Report which has, so far, estimated the loss at Kshs2.152 countrywide. The areas affected most were in Nyanza Province followed by those of Nairobi Province. I would like to table the Report.

(Mr. Omingo laid the document

on the Table)

Mr. Olago: Mr. Deputy Speaker, Sir, arising from the answer to this Question, the statistics show that small and big industries were affected alike. However, arising from the statistics, some of the big businesses affected, include Ukwala Supermarket which suffered a loss of Kshs300 million, Ndugu Transport; Kshs150 million, Nyanza Sugar; Kshs10 million, Kibos Sugar; Kshs10 million and Skyline Constructors; Kshs30 million, among others.

Arising from these losses, insurance companies have been able to compensate on ex-gratia basis some of the losses, at least, 50 per cent of the losses incurred. However, one of the biggest insurance companies in Kenya, which has consistently reaped profits from Kisumu business people, Kenindia Assurance Company, has refused to pay any iota of ex-gratia payments. What is the Ministry doing to consult with this particular company, so that it can pay, at least, part of the loss that business people suffered?

Mr. Omingo: Mr. Deputy Speaker, Sir, the contract of insurance is an obligation between two principals. It is true that it also depends on how well organized the insurance company is in terms of maintaining its clientele. However, the losses that were experienced during the post-election violence were of exponential nature.

I seek the indulgence of the House, to share the valuable information given by the hon. Member of Parliament. If need be, we, as a Government, will address the issue, and help the people who were affected. The conditions we operated under, in the beginning of the last year, were exceptional and, therefore, they required exceptional treatment.

Mr. M. Kamau: Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell this House what he is doing to compensate other business people from other areas in this country who were doing business in Kisumu. For example, we had business people from Central Province who were doing business in Kisumu. Their business were destroyed. What is the Government doing to make sure that they are compensated because they are also Kenyans and they have the right to conduct business anywhere in this country?

Mr. Omingo: Mr. Deputy Speaker, Sir, if the hon. Member will be kind enough to go through this list, he will realize that we have all those details. After relative calm returned, we went to everywhere to ascertain the position. That is the reason I said that we captured every bit of information in all areas countrywide and got a total of Kshs2.15 billion.

However, this Question was specific about Kisumu. Whatever treatment we give to Kisumu residents will be given out countrywide. It has to be uniform. We do not want to discriminate against any group of people because this information is all here.

Mr. Shakeel: Thank you, Mr. Deputy Speaker, Sir for giving me this chance. I am the hon. Member of Parliament for Kisumu Town East Constituency. Is the Government trying to run away from its responsibilities in respect of insurance claims, especially with regard to Kenindia, ICEA, Jubilee Insurance Company, among other companies? The situation is very clear that the Assistant Minister is not taking Kisumu seriously. When our people get shot, they do not talk about it. When we are teargassed, he does not talk about it. When our business premises are burned down, he does not talk about it. The situation is clear. We have suffered a major loss in this country. Our businesses are on the ground. The hon. Member for Kandara--

Mr. Deputy Speaker: Mr. Shakeel, I have to remind you that this is Question Time. Please, ask your question and let it be relevant to the topic!

Mr. Shakeel: I am sorry, Mr. Deputy Speaker, Sir. Sometimes, we get a little bit emotional. Hon. Member for Kandara, we welcome your people to come back. However, could the Assistant Minister assure us that he will take up this matter with the insurance companies concerned such as Kenindia, Jubilee, ICEA and Concord?

Mr. Omingo: Mr. Deputy Speaker, Sir, I have said that an insurance is a contractual obligation between two parties where there is a clear way of compensation. This was an exceptional situation that happened in the country. That is why we have gone beyond Kisumu.

I want to seek your indulgence that such information that the hon. Member has would come in handy in our consultations. You know that I cannot answer the issues of the functions of insurance as they are in the domain of the Ministry of Finance. We can agree on how we can address the issues that the hon. Member has, alongside with the Ministry of Finance.

I want to note that, equally, it is not only Kisumu people who were affected. This was all over the country. Partly, where I come from, people suffered the most. Therefore, this issue is close to my heart. That is why I am taking every bit of responsibility to consult with other arms of the Government in addressing the issue.

Mr. Olago: Mr. Deputy Speaker, Sir, the companies that suffered the most are the biggest employers in Kisumu Town. As a result of lack of compensation, they are not able to re-employ those who lost their employment due to the destruction. In such circumstances, what assurance can he give this House that the Government does not run away from its responsibilities and will consult with insurance companies to ensure that ex-gratia payments are effected? That is the responsibility of the Government and you need to discharge it.

Mr. Omingo: Mr. Deputy Speaker, Sir, as I have said, we are equally concerned. Some insurance companies have done something about it. We need to be a little bit uniform. That would be a basis for us to address this matter in consultations with the relevant arms of the Government. In the spirit of national healing, I expect the hon. Member to share the information he has and I guarantee that my Ministry will do whatever it takes to address the matter.

Question No.584

GOVERNMENT POSITION
ON EPAS

Mr. Deputy Speaker: Hon. Members, we have a communication from hon. Kombo. He is not able to be with us here because of circumstances beyond him. I direct that this Question be deferred to Wednesday afternoon, next week.

(Question deferred)

Question No.331

POSTING OF OCPD TO
KABIYET TOWN

Where is Mr. Koech? This Question is dropped!

(Question dropped)

Question No.439

NUMBER OF POLICE OFFICERS
UNDER INTERDICTION

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

- (a) whether he could indicate the number of police officers currently under interdiction;
- (b) whether he could also explain the circumstances surrounding the interdiction of Police Superintendent Joseph Kasili Kundu (P/No.217751), a former DCIO Embakasi, as well as the status of his appeal, if at all; and,
- (c) what the Government is doing to ensure that all such cases are finalized expeditiously.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker Sir, we had agreed with the Questioner that we would defer this Question to Wednesday next week because I was waiting to obtain some statistics.

Mr. Deputy Speaker: Mr. Wamalwa is that okay with you?

Mr. Wamalwa: Yes, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: That Question is deferred to Thursday, next week.

(Question deferred)

Question No.488

TARMACKING OF ROADS IN
VOI CONSTITUENCY

Mr. Mwakulegwa asked the Minister for Roads:-

- (a) whether he could confirm that Voi-Taveta Road is not tarmacked despite several Government promises to do so in the past and state when the Ministry plans to tarmac this road;
- (b) whether the Ministry also plans to tarmac Kasigau-Voi, Sagalla-Voi and Mbololo-Voi roads; and,
- (c) considering that no budgetary provision was made in the Financial Year 2008/2009, whether he could explain what steps he will take to tarmac the roads.

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

(a) I would like to confirm that Mwatate-Voi Road; A23 which is part of Voi-Taveta Road is not tarmacked, but the Voi-Mwatate section is tarmacked.

(b) The designs for upgrading the Mwatate-Taveta section and also the reconstruction of Voi-Mwatate section are complete and the Government is negotiating with the European Union on possible financing of the project from the European Development Fund in the years 2009-2013.

(b) The Ministry has no immediate plans for tarmacking the following roads. Kasigau-Voi; Road D541, Sigalla-Voi; Road D539, and Mbololo-Voi; D540.

(C) As I have pointed out, plans are at an advanced stage in securing funds to tarmac the Voi-Taveta Road; A23, and funds for the work will be included in the Budget for the 2009/2010 Financial Year.

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for his answer, especially part "b" of his answer. While waiting for the funds to be available, the Mwatate-Taveta Road is not motorable. Could he consider gravelling it so that it can be motorable?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I have taken up the request and I will be able to follow up and ensure that we allocate funds for gravelling of that road.

Mr. Mwadeghu: Mr. Deputy Speaker, Sir, could the Assistant Minister state categorically whether the road will be budgeted for in the next financial year? Since 1963, consecutive Governments

have promised our people that the road will be tarmacked and yet it has never been tarmacked. We want a statement from the Assistant Minister.

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I wish to reiterate my answer where I indicated that the Government is at an advanced stage in negotiating for funding with the European Union (EU) and we are confident that we will be able to include it in this year's financial budget. As to earlier promises or pledges by other Governments, I quite clearly cannot take responsibility for that.

Mr. Joho: Mr. Deputy Speaker, Sir, I do not know whether the Assistant Minister is aware that the Road A23 he is talking about was actually constructed in 1968 and ever since, no repairs have been done on it. Given that this is a very important road for this country, linking the Port of Mombasa with Tanzania, what will he do to ensure that this road is brought back to the standard that is required?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, as I have stated, the Voi-Taveta Road which is A23 is about 111 kilometres long and at present, the Voi-Mwatate section which is of bitumen standard is 25 kilometres, while the rest of the road to Taveta is of gravel standard. Construction and supervision is estimated to cost about Kshs7.5 billion and as we wait for that money to be availed in the next financial year, my Ministry is in the process of allocating funds for spots improvement which are still being done. I wish to state that in the year 2007/2008, we allocated Kshs1.58 million and in 2008/2009, we allocated Kshs1.65 million for spots improvement on this road.

Mr. Mwakulegwa: Mr. Deputy Speaker, Sir, could the Assistant Minister consider murraming Kasigau-Voi, Sagalla-Voi and Mbololo-Voi roads so that they are all weather and accessible?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, I have got the request and indeed we shall put it in our priority list pending availability of funds.

Mr. Deputy Speaker: Next Question by Mr. Washiali!

Question No.604

NON-DISBURSEMENT
OF FPE MONEY

Mr. Washiali asked the Minister for Education:-

(a) why he has not disbursed the Free Primary Education funds to schools since May, 2008; and,

(b) what he is doing to ensure that the FPE funds for 2008/2009 are disbursed to schools immediately.

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

(a) The Ministry released a sum of Kshs1,487,100,300.00 on 26th November, 2008. This money is meant for recurrent expenses in 18,497 public primary schools countrywide.

(b) As indicated in "a" above, the first tranche of the General Purpose Account II for the financial year 2008/2009 has already been released to schools while the second tranche of the same account is being processed. Currently, the Ministry is conducting the "Value for Money Audit" to determine the position of books and other instructional materials in schools after which the balance of FPE funds will be released based on the recommendations.

Mr. Washiali: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for having responded by saying that the FPE funds have been disbursed. Given that this money was meant to be for recurrent expenditure where even salaries of some employees like watchmen and other non-teaching staff were meant to have been paid from, could he assure this House that in the course of

this year, they will not delay the disbursement of those funds?

Prof. Olweny: Mr. Deputy Speaker, Sir, I assure my colleague that there will be no delay. We always do not delay that much.

Mr. Washiali: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us the reason for the delay because this money was supposed to have been paid by July 2008? What caused it to be paid in November 2008?

Prof. Olweny: Mr. Deputy Speaker, Sir, the hon. Member knows that this House gives us the permission to release Government money and guillotine was done in October last year. So, we gave out the money in November.

Mr. Deputy Speaker: Next Question by Mr. Kaino!

Question No.316

UNDER-UTILISATION OF POTATO
RESEARCH FACILITY IN MOLO

Mr. Deputy Speaker: Is Mr. Kaino not here? The Question is dropped.

(Question dropped)

Mr. Deputy Speaker: Next Question by Mr. Ruteere!

Question No.420

TRAFFIC CONGESTION ON
MERU-MAKUTANO ROAD

Mr. Ruteere asked the Minister for Roads:-

(a) whether he is aware of the serious traffic congestion on the two-lane Meru-Makutano Road during rush hour; and,

(b) what he is doing to decongest traffic in this section of the town.

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

(a) Yes, I am aware that this road within Meru Municipality experiences traffic congestion at rush hour.

(b) My Ministry has already initiated a road sector investment programme for improvement of rural and urban roads for the year 2009 to 2023. The programme will take into account provision as well as improvement of facilities for non-motorised traffic so as to decongest the concerned area. During the implementation of this programme, the Meru-Makutano Road will be considered. Further, the Meru-Makutano Road D6 is approximately four kilometres long. It starts at Meru Town centre and ends at Makutano junction that is B6 and C91. It is a section of the larger Meru-Maua Road C91. This road was rehabilitated in the year 2006 at an approximate cost of Kshs565.5 million.

Mr. Ruteere: Mr. Deputy Speaker, Sir, I appreciate the answer given by the Assistant Minister but I think he does not realise that the expansion of Meru Town is such that if we were to wait for that programme to take place, the traffic there would be at a standstill because the road leads to Maua and the other section leads to Nanyuki.

Further, there are a lot of extensions in Makutano Township. What is he doing so that there is improvement of the roads that lead to Maua and Nanyuki towns that are not yet improved so that they can be improved immediately?

Mr. Kinyanjui: Mr. Deputy Speaker, Sir, while appreciating the hon. Member's concern, I think it is important to note that the Ministry works on a specific budget. We will not be able to make short-term commitments because of lack of funds. As I have stated, we are in the process of coming up with a long-term plan that will take care of congestion, especially in urban centres to address the issue of added traffic that is often a cause of this headache. However, we will look at this issue and whenever funds are available, we will work on it.

Mr. Ruteere: Mr. Deputy Speaker, Sir, could the Assistant Minister tell me whether he will make this a priority in the budgetary allocation?

Mr. Kinyanjui: Yes, we will prioritise it, in view of the concerns by the hon. Member.

Question No.560

STATUS OF SAMBURU LODGE
AIRSTRIP

Mr. Letimalo asked the Minister for Transport:-

(a) whether he could clarify the status of the airstrip next to Samburu Lodge and explain its economic impact on tourism,

(b) why aircraft are being diverted to Isiolo Airstrip which is located 70 kilometres away; and,

(c) when he will take steps to ensure the airstrip next to Samburu Lodge is utilized.

The Minister for Transport (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The airstrip located closest to Samburu Lodge is Samburu North Koitogo Airstrip. This airstrip has in the past been used by aircraft accessing the Samburu Wildlife ecosystem which is a major tourist attraction particularly after lions were observed to have adopted an oryx within the neighbourhood. The airstrip has two crossing runways both of which are presently unserviceable.

(b) All aircraft currently land at Samburu South Buffalo Springs Airstrip which is bitumen based. Aircraft are not diverted to Isiolo. Even though the distance from Buffalo Springs Airstrip to Samburu Lodge is short, there is no bridge nearby for motor vehicles to cross the Uaso Nyiro River. Tourists and other users of the airstrip are, therefore, forced to detour via Archers Post which is the only place with a motor vehicle bridge.

(c) The airstrip next to Samburu Lodge just like other airstrips within the national parks was under the management of the Kenya Wildlife Service until it was taken over by the Samburu County Council. Consequently, Samburu County Council now collects landing fees instead of the Kenya Wildlife Service.

The Kenya Airports Authority has the responsibility of ensuring that all airstrips are operationally safe for aircraft landing and take off. The Kenya Airports Authority will rehabilitate the airstrip next to Samburu Lodge as soon as funds are availed in the next financial year; that is, 2009/2010.

May I also point out that in the printed answer, we referred to Isiolo County Council while in reality, it should have been Samburu County Council.

Mr. Letimalo: Mr. Deputy Speaker, Sir, I think it is really a pity that the airstrip used to be maintained purposely to attract tourists who are interested in seeing the lion and the adopted oryx. Considering that there are eight lodges that are served by these airstrips, tourists are now forced to travel by road to reach these lodges.

Mr. Deputy Speaker, Sir, is the Government not denying business to these lodges? Is the Government not denying revenue to Samburu County Council due to the decline of tourists?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, we appreciate the problem. I would like to assure

the hon. Member that my Ministry is taking the necessary action through the Kenya Airports Authority. The minor confusion occurred in 2007 when the County Council of Samburu through a Local Government Act, Gazette Notice No.126, took over the management of the airstrips; that created a slight disconnect. We have so far rectified the problem. Very soon, my Ministry will rehabilitate the airstrip.

Mr. Wambugu: Mr. Deputy Speaker, Sir, most of the airstrips in this country are no longer serviceable because inspection by the Directorate of Civil Aviation is no longer done since they no longer have an aeroplane to do that. What is the Minister doing to equip the Kenya Civil Authority or the KAA with an aeroplane to do that work?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, the problem is real and it has already received our attention and action. In my Ministry, we need a surveillance aircraft for maritime activities to monitor activities in the 200 kilometre exclusive zone as well as inland activities relating to civil aviation. We have included, in our budget, the purchase of an aircraft for surveillance purposes and that problem will be addressed adequately.

Mr. Lekuton: Mr. Deputy Speaker, Sir, I also happen to come from that region. That airstrip is well-known to me and many people in Samburu District. That airstrip is located in a very windy location where planes have problems landing and even taking off. Before he even starts rehabilitating the airstrip, could the Minister ensure that the Meteorological Department looks at that airstrip and ensures it is safe for landing in future?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, yes, that will be done because according to our records, the ecosystem of Samburu has got four landing strips; that is, Samburu North Koitogo Airstrip, Samburu Oryx, Samburu South Buffalo Springs and Shaba Sarova. Out of those, we shall do thorough rehabilitation of one, and all the inputs including meteorological advice will be put into consideration.

Mr. Letimalo: Mr. Deputy Speaker, Sir, considering that the management of these lodges incur a lot of transport costs to go and pick tourists who are dropped at this airstrip or diverted to Isiolo Airstrip, how much would it cost to rehabilitate this airstrip? Why has it taken this long considering that this is a major economic activity to those lodges and the community around?

Mr. Mwakwere: Mr. Deputy Speaker, Sir, as I said earlier, out of the four airstrips, we have not really decided which one will be fully rehabilitated. I would like to assure the hon. Member that we shall rehabilitate one of them, whatever the cost.

Question No.563

ELECTRIFICATION OF ZOMBE/NDOOA
TOWNS IN MITTO CONSTITUENCY

Mr. K. Kilonzo asked the Minister for Energy:-

- (a) what plans the Government has to provide electricity to Zombe and Mutito (Ndooa) which are major towns in Mutito Constituency; and,
- (b) considering that there has been a discovery of coal deposits in these areas, whether he could consider including the two towns in the Rural Electrification Projects funded under French Projects II or any other funding.

The Assistant Minister for Energy (Mr. Keter): Mr. Deputy Speaker, Sir, I wish to respond as follows:-

I had answered part "a" of the Question last week. I said that Zombe, which will cost about Kshs31 million, cannot be considered under the Rural Electrification Project. We are considering Mutito (Ndooa) and Mui in Mwingi South which fall under the Mui Basin where we are doing the

coal exploration. We will fund some of the projects in that area which fall under that region, for example, Mutito (Ndooa). This will ensure that we give them power.

Under part "b", we do not have funds under the French Phase II because that project was completed three years ago. Right now, I cannot say that we will provide funds under that programme. We will look for other sources of funding to finance that project.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I want to thank the Minister for that comprehensive answer. It is, indeed, music to the ears of both myself and the Assistant Minister, Ministry of State for Defence, Mr. David Musila, with whom I share Mui basin. Syoangwe is in my area, while Mui is in his area.

Mr. Assistant Minister, if we really want to advance investment in this country, you would agree with me that we need electric power. So, I would want to request you and your team to find a suitable date, just as I requested you last week, to tour that area and look for a fund from which you will give us electric power as soon as possible.

Mr. Keter: Mr. Deputy Speaker, Sir, I can tour the area, but the issue of funds cannot go together with that of touring the area. I have made an undertaking that we are looking for funds, so that we can develop the whole area. We will soon have coal being mined in that area. So, on the issue of touring the area, we can meet and agree on the date. I had said that I am ready. I had given you a date for tomorrow. However, since you have requested it again, it shows that you are not ready. Let us agree on when you want me to accompany you to that region.

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister and confirm to him that I am ready. Even if it means going there tomorrow, we will go together.

Mr. Deputy Speaker: Next Question, Mr. Kiilu!

Question No.608

ELECTRIFICATION OF EMALI
JUA KALI ASSOCIATION PLOT

Mr. Kiilu asked the Minister for Energy:-

- (a) whether he could explain why electricity supply to Emali Jua Kali Association (Plot No.14) in Emali Township has not been connected despite payment of Kshs491,000 to Kenya Power and Lighting Company (KPLC) on 24th January, 2007; and,
- (b) when the supply will be connected.

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

(a) Electricity to Emali Jua Kali Association (Plot No.14) in Emali Township has not been connected since the customer has not fully paid the required capital contribution. The Association has made payments amounting to Kshs491,000 to the KPLC to carry out the survey work and thereafter calculate the actual cost for power connection. The balance was about Kshs800,000.

(b) I want to assure the hon. Member that this afternoon, we made a decision to the effect that electricity to the Jua Kali Association (Plot No.14) will be connected by 15th February, 2009. We recognise the work the youths are doing. So, we will not charge them any additional money. We made a decision, as a Ministry, and we have communicated the same to the KPLC. Work will be done before 15th February, 2009.

Mr. Kiilu: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that undertaking, considering that it has taken so long for that plot to be supplied with electricity, and considering that the Jua Kali sector is a major supply of employment to our people. So, I want to assure him that I will wait until 15th February, 2009.

Mr. Deputy Speaker: Are you satisfied? The Question is now the property of the House.

Mrs. Noor: Mr. Deputy Speaker, Sir, may I thank the Assistant Minister for assuring this House that he will connect electricity supply to the Emali Jua Kali Association plot. Having said that, I would like to inform him that, Garissa, being the provincial headquarters of the North Eastern Province, has had a long outstanding electricity problem for many years. What plans does the Ministry have to connect the town to the national grid?

Mr. Keter: Mr. Deputy Speaker, Sir, I am aware that Garissa is experiencing a lot of power problems due to low voltage. The hon. Member knows very well what we are doing as a Ministry. However, for the sake of the whole House, I want to assure her that we are trying to put up a 33 KVA line to Garissa, so that the problem can be sorted out, once and for all.

Mr. Deputy Speaker: Hon. Members, we have more or less concluded. That was the last supplementary question on that matter. There is an hon. Member who wants to seek a Ministerial Statement.

Mr. Ogindo, you can proceed and seek your Ministerial Statement!

POINT OF ORDER

DELAYED PRESIDENTIAL ASSENT TO FISCAL MANAGEMENT BILL

Mr. Ogindo: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Attorney-General regarding the Fiscal Management Bill, 2008, which this House passed on 11th December, 2008, the fate of which, to date, is unclear.

I would want the Attorney-General to clarify, among other things, when he actually presented the Bill to His Excellency the President for assent; whether the Bill has been assented to. If not, when do we expect to receive the Memorandum from His Excellency the President, in accordance with the provisions of Section 46(4) of the Constitution, considering that the Budget process is just about to begin and the Bill is quite crucial to the reform of the Budget process?

Mr. Deputy Speaker, Sir, I would further want the Attorney-General to clarify the commitment of this Government in supporting reforms in the national Budget making process as envisaged in the Bill.

Mr. Deputy Speaker: Hon. Members, it is not the Attorney-General who will give a communication on this one. The Chair will give a Communication on this matter next week. The undertaking had already been made.

Prof. Sambili, you have a Ministerial Statement to issue!

MINISTERIAL STATEMENTS

GOVERNMENT POSITION ON PERSISTENT WRANGLES IN FOOTBALL MANAGEMENT

The Minister for Youth Affairs and Sports (Prof. Sambili): Thank you, Mr. Deputy Speaker, Sir. It is true that I was asked to issue a Ministerial Statement on the management of football in Kenya. However, we are all aware, as Members of Parliament, of the wrangles that have been persistent in the management of football in this country, for a long time.

We, in the Ministry, are committed and determined to get a lasting solution to the problem that has bedeviled the management of football in this country. We are willing to work with the international federation in charge of football, which is FIFA.

On 22nd January, 2009, we had a meeting with the President of FIFA. During that meeting, we agreed that a reconciliation team be formed to seek a lasting solution to the wrangles in the management of football in this country. That meeting is scheduled for tomorrow. So, I want to request that I be allowed to issue the Ministerial Statement after we have concluded the discussions during the reconciliation meeting.

Mr. Deputy Speaker, Sir, giving any further details might jeopardise the issues to be discussed tomorrow. I might look like we are biased. We, in the Ministry, are not taking sides. We would like to have this meeting. After we complete it, I will issue a Ministerial Statement. Otherwise, we, in the Ministry, are committed to looking for a solution that will bring sanity and order to the management of football, so that we can all enjoy football together with fans from other parts of this country.

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

Mr. Deputy Speaker: Order, hon. Thuo!

The Minister for Youth Affairs and Sports (Mrs. Sambili): I am sorry, Mr. Deputy Speaker, Sir. I have talked to the hon. Member who had asked the Question and he has accepted to give us time until we finish the reconciliatory meetings.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Thuo: Mr. Deputy Speaker, Sir, I would like to confirm that she has, indeed, consulted me on that. While I accept that we shall have a comprehensive answer on Tuesday, I would just love it if the Minister could confirm that, as they go to that meeting, they do not go with any favoured side, they are neutral, they will accept the outcome and, indeed, they will implement it.

Mr. Deputy Speaker: Hon. Thuo, I do not think you have the authority to direct the Minister here on the Floor of the House, and seek the Chair's indulgence under such circumstances.

(Loud consultations)

Order!

The Minister has said that she intends to issue a Ministerial Statement after the negotiations. The content of the negotiations cannot be discussed here. Indeed, what you are doing right now is to open up parts of the contents of the negotiations. I think the Chair---

*(Hon. Thuo stood up
in his place)*

Order, Mr. Thuo! Given our own national interest, the Chair directs that, that Ministerial Statement be given after the conclusion of those negotiations! That is the ruling!

Mr. Thuo: I oblige, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Thank you, Mr. George Thuo! There are other Ministerial Statements that we are waiting for.

Hon. Balala, please, proceed!

FUNDING OF PRESIDENTIAL VISIT TO MASAI MARA GAME RESERVE

The Minister for Tourism (Mr. Balala): Thank you, Mr. Deputy Speaker, Sir. I beg to issue a Ministerial Statement as per the request by Mr. K. Kilonzo last week, while I was away.

Mr. Deputy Speaker, Sir, last year in August, my Ministry, in collaboration with other tourism stakeholders, partnered together to mount a one-week tourism focus week from 11th to 17th of August, 2008. The campaign was dubbed "The Seven Days Wonder" whereby the Standard Media

Group and KTN dedicated airtime and newspaper space to publicize tourism. That coincided with the migration season of the wildebeest in the Masai Mara.

Mr. Deputy Speaker, Sir, the seventh wonder of the world is well known today. That was part of the tourism recovery strategy following the post election slump. We wanted to focus attention to the various tourism products we have in Kenya and the climax of that campaign was in three days where there was live coverage of the migration on location in the Maasai Mara.

As part of the activities of the week, my Ministry and the tourism industry arranged for three days - that is from 16th to 18th - whose objective was to profile the Maasai Mara. That was by reassuring the international community that Kenya was safe and, more importantly, engage domestic tourists to appreciate our prime tourist attractions. The trip was organised by my Ministry, the Kenya Tourist Board and members of the industry, Kenya Association of Tour Operators (KATO), in particular.

Mr. Deputy Speaker, Sir, the costs pertaining to the trip, which included air transport, accommodation, meals and ground transport was provided for on a complimentary basis by the industry. That was agreed upon prior to the trip.

In order to underscore the Government's commitment to the recovery of the tourism industry, I invited His Excellency the President to join the programme for one day. That was meant to raise the profile of the event by capitalising on the publicity that his visit would generate towards it. As a result, there was a remarkable increase in the number of Kenyans who went to witness the migration as well as visiting the hotels.

Mr. Deputy Speaker, Sir, according to the established practices, the Presidential trip was handled by his office, and in the case of Maasai Mara too, it was not different. In addition, the decision of who to accompany him was his discretion. In the Mara trip, the President came with his own entourage. However, on that day, many other personalities from the Ministry of Tourism, Ministry of Forestry and Wildlife, Ministry of State for Provincial Administration and Internal Security, Office of the President and Ministry of Local Government, leaders and political leaders attended the event.

Mr. Deputy Speaker, Sir, the Ministry of Tourism only contributed to the cost of live transmission by KTN from Maasai Mara, amounting to Kshs1.5 million. It is important to note here that the cost of the live transmission was much higher, but other corporate sectors supported the initiative.

Mr. Deputy Speaker, Sir, to the claim that the Treasury suspended a Kshs12 billion rescue package as a result of that trip, I want to state here that it is misplaced and not true. My Ministry has submitted a request for Kshs1 billion for the current financial year, but due to other pressing Government commitments like fuel subsidies and food security, it was not possible to provide the full amount. However, I want to announce here today that last month, the Minister of Finance gave the Kenya Tourism Board Kshs250 million for marketing. I have an assurance that more funding will be made available in the coming Financial Year, 2009/2010.

Mr. Deputy Speaker, Sir, the list of officials and guests of the entourage was as follows:-

Officials of the Ministry included my Assistant Minister, the Director of Tourism, the Public Relations Officer and the Principal Tourist Officer. Those are the officials of the Ministry. But there were other guests as well, whom I had invited, including two media persons from Italy - as we were going to Italy very soon - and a hotelier from Malindi.

I was also accompanied by my two children and civic leaders from Coast Province, and their names have been stated in the Statement. That trip was intended to expose the country and give it the profile it deserves.

In conclusion, Mr. Deputy Speaker, Sir, I want to make it clear that neither my Ministry nor the parastatals paid any cost towards the cost of the Presidential entourage or any other guest who was on the trip. It is also important to note that the Kshs20 million which had been irregularly claimed

by the Kenya Tourism Board management as cost for the trip was never paid. As you are aware, I have already taken the necessary action at the Kenya Tourist Board management following the report from the Board to ensure that public funds are safeguarded.

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir. I wish to thank the Minister for that clarification. However, I thought the Minister would have been more candid and stopped wastage of public funds. That is because it appears as if there is a competition between Ministers in this Government on who is going to misuse the office more than the other. The hon. Minister went on that trip accompanied by the following people:-

One of them was a Mr. Stefano, who had no role in helping the tourism sector to promote the Masai Mara. The other persons were two ladies by the names Christine Tura and Ms. Maggy, who the Minister has conveniently not told us what role they were playing there. There were councillors from his constituency, as if only councillors from his constituency were the only ones who could promote Masai Mara in Kenya and internationally. Their names are Cllr. Abdallah Ibrahim, Cllr. Ibrahim Babangida, Cllr. Ali Bakhudhry, Cllr. Chirchir, Cllr. Shabir and his own cousin, Cllr. Tawfiq Balala. On top of that, I will table the list of very many people who were on that trip just to misuse public funds.

Secondly, there was a fee note which was raised. But the Minister has conveniently not mentioned it. It was for Kshs20 million. How could a trip lasting half a day cost Kshs20 million? In order to justify that, the Minister went ahead and pretended to investigate that by sacking one Dr. Achieng Ong'ong'a, who had done a very good job in the tourism industry.

Mr. Deputy Speaker: Order, Mr. K. Kilonzo! Whereas you are passionate about what you want to raise, you realise this is a Ministerial Statement. You should seek clarifications on the content of the Minister's Statement. Do not give a speech! If you want to give a speech, there are provisions in the Standing Orders that allow you to bring up the matter but in a different format, not in form of a Ministerial Statement. Seek clarification from his Statement.

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir, I stand guided. I want the Minister to clarify on why a fee note of Kshs20 million was raised, and why he was involved in the discussions on how that money was going to be used.

The last clarification I would like to seek from the Minister is why he told the public that he had fired one Mr. Duncan Muriuki, yet he knew very well that Mr. Muriuki had resigned on 25th December, 2008 while the Minister appeared on the national TV on 8th January, 2009 and pretended that he was firing somebody who had already resigned from the Kenya Tourism Board (KTB). I would like to table these documents to prove that Mr. Muriuki had resigned before he purported to have fired him.

(Mr. K. Kilonzo laid the documents on the table)

The Minister for Tourism (Mr. Balala): Mr. Deputy Speaker, Sir, I am encouraged by the information that I am getting from my colleague, Mr. K. Kilonzo. But I can see that I have answered most of his questions in my Ministerial Statement.

I have said very clearly that of the three Italians who were accompanying me, two of them are journalists. One of the Italians is the President of the Italian Association of Travel Writers. When I was in Italy in September, we had three pages of media coverage by the two Italian writers, who were sponsored by Ms. Cristina Tura of Chui Group of Hotels in Malindi. So, this is what we have got in return of their visit to the Masai Mara.

On the question of Kshs20 million, we agreed before we went to the Maasai Mara that all services by the private sector would be free of charge. That was why we were surprised to see

somebody raising an invoice for Kshs20 million, and action was taken as per the recommendation of the KTB on 10th December, 2008. Mr. Duncan Muriuki thereafter, resigned and proposed the name of Mr. Aden Jilo as the Vice-Chairman of the Kenya Association of Tour Operators (KATO). My directive was to implement the proposal of the KATO to the KTB by appointing Mr. Aden Jilo on 20th December, 2008. But because it had not yet been gazetted, it was not appropriate for me to announce it before the issues came to my notice.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, you have noticed that the Minister has avoided one bit about councillors!

(Applause)

Could he clarify whether all those councillors came from his constituency only?

Mr. Deputy Speaker: Order! Mr. C. Kilonzo, it is important that we get the whole substance of the Statement and respond to it accordingly. The Minister maintains that no public funds were used on this, and that the bill of Kshs20 million has never been incurred. If you confine yourself to the content, I think you will be in a position to interrogate the Ministerial Statement properly.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, there were other costs that included air fares.

The Minister for Tourism (Mr. Balala): Mr. Deputy Speaker, Sir, I want to confirm that there were more than 50 councillors present in that function. Among them were councillors from my constituency. But I want to clarify that not a single penny was paid from Government coffers for any councillor or guest.

(Applause)

Mr. Kioni: Mr. Deputy Speaker, Sir, I want to thank the Minister for his honesty, but can he clarify to this House what the basis was for arriving at the 50 councillors? What constituencies were considered and on what basis?

Mr. Deputy Speaker: Order, hon. Members! This a State! It is a nation; the activities of the nation are carried out by the Executive. The issue at hand is whether public funds were misused or misappropriated. You can ask how many councillors were involved and the basis of their selection if public funds were used. As long as public funds were not used, I think the decision of any Minister is based on what he feels is the best way to promote the activities of his Ministry and the economy in that nature.

*(Mr. C. Kilonzo stood up
in his place)*

Order, Mr. C. Kilonzo! I will allow further interrogation, but I think we will be doing the House a lot of indignity if we do not use the language that is appropriate and befitting the dignity of this House.

If we keep on finger-pointing and calling one another names in the manner that has become a tradition now, we will be denigrating the most important institution in this country.

As for the content and the substance, there should never be compromise on it and also on the protection of the interests of this country and its resources.

Proceed, Mr. C. Kilonzo, to seek clarification or raise the point of order that you may have.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I am a little bit perplexed by your ruling; that, this House should only query use of taxpayers' money. Now, I understand why when scholarships come, and they are not Kenyan taxpayers' money, the Ministers decide to give them to their constituencies.

(Applause)

It is true that some funds which were taxpayers' money were used, but that did not give the Minister the power to decide on his own where they should have gone. Therefore, I want to look again at your ruling: The role of this House is not only on taxpayers' money but also on money given out by well wishers to this country.

Mr. Deputy Speaker: Hon. Members, you realise that if we have to undertake promotion anywhere, whether it is in our industries, our tourist destinations or even our semi-desert like where I come from, you cannot take all Kenyan councillors there.

In fact, you cannot take all the Parliamentarians there. In Parliament, you go on trips outside this country to promote its image and also to learn from other places. The Speaker or Deputy Speaker cannot send all the hon. Members on one trip. Under the circumstances, should you wish to have further interrogation on the basis that was used, I think you are entitled to do that.

Mr. Chanzu: Mr. Deputy Speaker, Sir, considering that, that was a promotion in respect of tourism, which has been one of the high income earners for the country, could the Minister clarify the tangible gains that have been realised out of that promotion to date?

Mr. Deputy Speaker: Mr. Minister, what gains is our country making out of that promotion?

The Minister for Tourism (Mr. Balala): Mr. Deputy Speaker, Sir, after the Maasai Mara promotion, the whole country saw live through the KTN, the NTV, Citizen TV and other media. They showed how important and unique the great animal migration at the Masai Mara is, although we were not aware of it. It encouraged domestic tourism. Last December, we were supposed to have a high season but due to the other problems that we had, most of the people who visited the Coast, for example lodges and hotels, were mainly Kenyans. We were proud that Kenyans are starting to travel and taste their own tourism products.

Mr. Deputy Speaker: I think we have given ample time to this Ministerial Statement. Should you wish to have further interrogation of the matter, please use other provisions in the Standing Orders.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. We will not allow the Minister to get away with this. In Great Britain, the Secretary for Home Affairs, Mr. Blunkett, had to resign because he used his office to aid a girlfriend to get a visa in London. The Minister was not given those air fares, or other privileges, because he is Mr. Balala. It was the office, or Ministry of Tourism, which was accorded that privilege. If that was given to promote tourism, was it in order for the Minister to just take his councillors and relatives on a trip for reason that the Government never used any funds?

(Applause)

Could he now tell us why he decided to take on a trip, only to take his relatives and constituents and not councillors from Kenya as a country?

Mr. Deputy Speaker: Order! Order! We are going to have decorum and dignity in the way we conduct the business of the House. This is a House of honourable Members of Parliament.

We have given ample time for the interrogation or clarification of this particular Ministerial Statement. Should you wish to further scrutinise or interrogate, the provisions are there in our Standing Orders.

Hon. Members, the laws are made by Members of this House. The business of the House is decided by the House itself. Use the other available opportunities and provisions to interrogate further, if you want to interrogate the Minister.

Next Ministerial Statement!

*(Resumption of Ministerial Statement
interrupted on 28.1.2009)*

ALLOCATION OF MAIZE
TO MILLERS

The Minister for Agriculture (Mr. Samoei): Mr. Deputy Speaker, Sir, there were some clarifications on the Ministerial Statement requested by hon. Mututho. I do not know whether I can respond to the issues that were raised then or maybe, the hon. Members can raise issues so that I can respond to all together.

Mr. Deputy Speaker: Hon. Members, the standard procedure of the House is that the Minister issues the Statement and then if there is clarification that is sought by the Members, he would take it.

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir. This is the third time that this Ministerial Statement is coming here. Since the Minister had issued his Ministerial Statement, I think it was hon. Dr. Khalwale, who had requested for deferment until today so that he could seek further clarification. Is it in order for the Minister to go back to the original Statement or should Dr. Khalwale and any other Member proceed to seek clarifications?

Mr. Deputy Speaker: Fair enough! The official memory of the House is there. Indeed, you are right. Dr. Khalwale or any other Member can proceed now and seek further clarifications on the Ministerial Statement.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I want to thank the Chair for having allowed me the indulgence of coming today to seek the following further clarification.

Arising from the Statement that was made by the Minister, I would like the following clarifications to be made by him: Why did he deny knowledge of the export of maize to Southern Sudan, in spite of information to the contrary by the Prime Minister?

Secondly, why did the Minister mislead the House that as at June, 2008, there were 1.6 million bags of maize at the National Cereals and Produce Board (NCPB), instead of the actual figure which was there at that time, that is, 2.6 million bags? What happened to the difference of one million bags.

To support the fact, that indeed, the Minister was misleading us, I wish to lay on the Table, a table from the NCPB that shows the stock holding at the NCPB and its position at that time. If you will go to this page which I am folding, for your information, I have highlighted the figure. It is actually 2,606,652 million bags of maize, meaning that the Minister misled the House.

*(Dr. Khalwale laid the
document on the Table)*

Mr. Deputy Speaker, Sir, I wish that the Minister clarifies why orders were issued from his Ministry to managers at the NCPB for release of maize to individuals and companies. I wish to table a note from the Agricultural Secretary as an example of these orders that were being released.

I also wish to table a letter signed by one who says he is the Personal Assistant of this Minister, a Mr. Simatwo, who actually prepared that letter on the letterhead of the Minister.

I also wish to table a letter of allocation to a company by the name of Saino Commercial Agencies, citing hon. Samoei's phone call.

The first document is by the Secretary of Agriculture. That order allowed a company called Western Region Millers to access 50,000 bags of maize.

(Dr. Khalwale laid the document on the Table)

The second one which is on the letterhead of the Minister, hon. William arap Ruto, is signed here by Mr. Simatwo. It released 1,000 bags of maize.

(Dr. Khalwale laid the document on the Table)

The third one is on the letterhead of Saino Commercial Agencies. This one was requesting for 50,000 bags, but when the managers approved it, they said:-

"Approval - 20,000. Hon. Ruto has called to pick 10,000 bags."

It was signed on 22nd August, 2008.

(Dr. Khalwale laid the document on the Table)

Mr. Deputy Speaker, Sir, I also wish that the Minister clarifies by explaining why the Managing Director and the Trustees of NCPB, signed and released maize to a host of companies, some of which were not deserving. I would like to prove this by tabling a letter which was signed by the Trustees and Managing Director. The maize actually went to some companies which were not deserving. The Permanent Secretary, Ministry of State for Special Programmes, Permanent Secretary, Ministry of Agriculture and indeed, the Managing Director have signed.

(Dr. Khalwale laid the document on the Table)

Mr. Deputy Speaker, Sir, may I add at this point that the Clerk of the National Assembly of Kenya wrote to these Permanent Secretaries to appear for further clarification, and they refused. The Clerk referred that letter of their refusal to me and he had marked it that we must make sure that they come. They did not come, probably because they feared to shed more light on this particular authority which they gave.

(Dr. Khalwale laid the document on the Table)

Mr. Deputy Speaker, Sir, I would also like the Minister to confirm that all the companies that received maize from the NCPB were, indeed, deserving cases. I have a list of all the companies that received maize and it is up to the Minister to tell this House whether all these companies which are here were deserving cases. This is because it was his responsibility to jealously guard the stores of the NCPB, but he allowed these companies to access maize.

(Dr. Khalwale laid the document on the Table)

I hope that the comments I am going to make will not elicit any reactions. Since the companies are very many, allow me to cite just a few of them, so that the whole House can move with me. We

have a company on that list which received 100,000 bags. It is a company by the name of Mafuta Farm and it belongs to a powerful politician cum businessman by the name of Jackson Kibor.

There is another company there which received 58,000 bags of maize by the name of Madadlii Enterprises. It is connected to a powerful businessman, through his brother called Sam Nyamweya.

Mr. Deputy Speaker, Sir, there is a company there called Frika Enterprises which received 10,000 bags of maize.

Again, it is connected to Mr. Jackson Kibor.

Mr. Deputy Speaker, Sir, there is a company in that list called Nasada Company. This company belongs to an hon. Member of Parliament who is seated in this House. I will leave it to the Chair to rule whether we should mention the name of the Member.

(Applause)

Mr. Deputy Speaker, Sir, there is a company here that sells cement. It is called Riana Company. May the hon. Member who is associated with this company stand up.

(Laughter)

Mr. Deputy Speaker, Sir, I want---

Mr. Gabbow: On a point of order, Mr. Deputy Speaker, Sir. If the hon. Member could mention names of people outside this House, why is he afraid to mention the hon. Member involved?

Mr. Deputy Speaker: Order, Mr. Gabbow! You are out of order! You cannot discuss the conduct of a sitting Member of Parliament without a substantive Motion. You will have to bring a substantive Motion and you are at liberty to do that.

Dr. Khalwale, please, proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, I would like this Minister to clarify why companies were given maize beyond their milling capacities.

Mr. Deputy Speaker, Sir, I have a list here which shows the kind of capacities for the companies. Could the Minister confirm to this House that Mombasa Maize Millers had the capacity to be allocated 696,000 bags of maize to mill in two months?

Could he also confirm or deny that, Mafuta Firm has the capacity, if at all they are milling, to mill 100,000 bags? Further, that Kitale Industries would mill 144,000 bags and that Buskin Industries had the capacity to mill 151,000 bags?

Mr. Deputy Speaker, Sir, I would like the Minister to clarify to this House why the managers of the National Cereals and Produce Board (NCPB), on 29th of September, 2008, approved and released 182,000 bags of maize to companies without the authority of the trustees. Some of the companies were briefcase millers, for example, Nasada, which belongs to an hon. Member of Parliament.

Mr. Deputy Speaker, Sir, I wish to lay on the Table the approvals by these managers. There is one signed on 16th September and indeed, it approved the release of 182,000 bags of maize as I have stated above.

(Dr. Khalwale laid the document on the Table)

Mr. Deputy Speaker, Sir, I have with me here---

Mr. Deputy Speaker: Order, Dr. Khalwale! I think there is an on-going probe by the Public Accounts Committee (PAC). You have summoned stakeholders and other Government officials to

this.

As much as possible, stay clear from that. That is now within the PAC. You can only present those facts as the Report of PAC in your capacity as the Chair. As long as it is not within that domain, then you are free to proceed.

Dr. Khalwale: Mr. Deputy Speaker, Sir, the Chair ruled last week and I want to reaffirm that I am speaking as the representative of constituency No.161 called Ikolomani!

(Laughter)

Mr. Deputy Speaker, Sir, I have other authorities from these managers who released in bits of 10,000 bags, 5,000 bags, 20,000 bags and 16,000 bags totalling to 24,000 bags. These companies are here for the scrutiny of the House. I cannot go through the whole list. I beg to table.

(Dr. Khalwale laid the list on the Table)

Mr. Deputy Speaker, Sir, I would like the Minister to clarify why it did not occur to him that due to these myriad of anomalies at the NCPB, the following should not have been purged when he announced the purported purge. Why did this Minister refuse to send home the Managing Director (MD)? Why did the Minister refuse to send home the Marketing Manager and the Chief Accountant and Financial Controller? If this House would allow me to dig deep, you would find that probably, there is a reason why this Minister refused to send these people home.

Mr. Deputy Speaker, Sir, finally, could this Minister clear the air in this House and the entire Republic that he is not involved in this clever syndicate with a multiplicity of care? To help you clear it further, I would like to lay the following documents on the Table.

Mr. Deputy Speaker, Sir, because this document has come all the way from India, you will allow me to read from it because it is very brief.

This is a company called Al Champdany Industries Ltd. This is an Indian company and the business at hand is the supply of gunny bags.

Mr. Deputy Speaker, Sir, it reads as follows:-

"We offer two million jute bags of 90-kilogramme capacity at the cost of US\$0.97 per kilogramme, CF, Mombasa, freeout payment against confirmed site, Letter of Credit which should be opened within ten days of confirmation of business. Shipment within three months of receipt of the Letter of Credit which is negotiable. Our offer is valid up to 31st of July for your reply. Thereafter, it is subject to reconfirmation".

He signs as N. Pujara.

Then he says:-

"Copy to: Ms. Purnima Ramakrishna, Secretary to the High Commissioner of India to Kenya, High Commissioner of India, Nairobi Kenya".

He then tells the High Commissioner:-

"We have sent the above message to Mr. Silas Simatwo, MD of the African Merchant Assurance Company Limited of Kenya. This is for your information please".

Mr. Deputy Speaker, Sir, may I explain that Mr. Simatwo is indeed, the MD of this company. This company in short is called AMACO. This is the company the Minister runs as an insurance company. I lay the document on the Table.

(Dr. Khalwale laid the

document on the Table)

Mr. Deputy Speaker, Sir, after the MD of hon. Ruto received this particular document from India, he then replied. He has replied via e-mail.

Mr. Deputy Speaker, Sir, it is indicated here but I have the following to read. He writes back to Punjab on 30th. He tells him:-

"Dear Mr. Punjab,

Our conversation refers. I am in receipt of your fax which contains your company's price guide. Other Indian competitors---

Mr. Deputy Speaker: What is your point of order, Mr. Duale?

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

Mr. Deputy Speaker: Dr. Khalwale is interrogating a Ministerial Statement. He is not on a point of order!

Mr. Duale, please, proceed!

Mr. Duale: Mr. Deputy Speaker, Sir, is the hon. Member in order to lay on the Table documents some of them e-mails that are personal and private in this House?

Hon. Members: Ah! Ah! Ah!

Mr. Deputy Speaker: Dr. Khwalwale, please, proceed!

Dr. Khalwale: Mr. Deputy Speaker, Sir, this is the last bit:-

"Our conversation refers. I am in receipt of your fax which contains your company's price guide. Other Indian companies have given their prices to the Cereals Board.

One of the most competitive of them is already in Nairobi for negotiations. They have an agent in Nairobi who has approached me to front for them. I would, however, prefer to use my vantage position to work directly with you, which is why I would prefer you urgently come over to Nairobi. This morning I had a meeting with both the Minister and the NCPB, Managing Director. We resolved that I ask you to urgently come over so that we finalise and seal the deal. Kindly, expedite.

Silas Simatwo."

This deal, which the Minister should clarify, is worth Kshs153,260,000. The Minister should clarify how a Managing Director of his insurance company went and fronted for gunny bags when the Minister knew that within his Ministry, there were plans of purchasing grain and this required that they buy gunny bags worth Kshs574 million. I wish to lay this document on the Table.

*(Dr. Khalwale laid the
letter on the Table)*

The Minister knew that this job was there and that is why his company pretended that it also does import and export of gunny bags instead of insurance and ended up fleecing the public the way they did. I seek that hon. William Ruto, Member of Parliament for Eldoret North, forgives me if, at any stage, he thought I was being personal. I am not personal. I am a Member of Parliament. As such, I feel really intimidated---

Mr. Deputy Speaker: Order, Dr. Khalwale! You sought your clarifications. Please, allow the Minister to clarify.

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

The Minister for Agriculture (Mr. Samoei): Mr. Deputy Speaker, Sir, I beg to respond---

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

Mr. Deputy Speaker: Order, Mr. Mututho! We will all be doing this House a lot of justice if we allowed the Minister to clarify.

The Minister for Agriculture (Mr. Samoei): Thank you, Mr. Deputy Speaker, Sir. Let me start with where Dr. Khalwale started--

Mr. Mututho: On a point of order, Mr. Deputy Speaker, Sir. I seek your indulgence if I go wrong. I am the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources.

Mr. Deputy Speaker, Sir, various people have been mentioned here, including Permanent Secretaries. I think it will be in order that my Committee goes full swing to investigate each and every document laid on the Table.

Mr. Deputy Speaker: Order! Order, Mr. Mututho! This is not the time for that guidance from the Chair.

Proceed, Mr. Minister!

The Minister for Agriculture (Mr. Samoei): Mr. Deputy Speaker, Sir, I guess the Chairman of the Departmental Committee on Agriculture, Lands and Natural Resources, Mr. Mututho, can continue with his investigations. However, it is proper that I answer to the unfortunate allegations as they are by Dr. Khalwale.

Last week, Dr. Khalwale made a couple of very serious allegations. In fact, he alluded - and it is in the HANSARD - that his Committee was investigating the maize crisis in the country. That was a complete distortion of the truth. It also shows the dishonesty and insincerity of the hon. Member for Ikolomani. None other than hon. Members in his Committee have gone ahead to deny that, indeed, there are any investigations being carried out by the Public Accounts Committee (PAC).

I have a letter written to my Permanent Secretary on the issues before the PAC. Those issues are to do with misappropriation of money and donations that were given to the Government in 2004/2005 and 2005/2006. Honestly, if a Member of this House makes allegations that are completely untrue, it clearly indicates that he is driven more by things other than what is good for the country.

Dr. Khalwale alleged last week that I brought here a list containing, I think, 2,000 names. He said that there were 600 names on the list. In fact, we have condensed the list further to 400 names. This is because we have removed double entries, triple entries and even entries up to four or five times. The list is now complete.

The hon. Member is not telling the country that there are companies that were allocated maize which the Minister has not listed. He is not saying that. There are no other companies that were allocated maize that I did not lay their names on the Table. He is not saying that "Company X", which is not in my list, was given any maize. That means that I was telling this House the truth. There is no single company that was given maize which I did not bring to the attention of this House.

Mr. Deputy Speaker, Sir, Dr. Khalwale has ably announced to us just as he did last week that there is maize that is going to Southern Sudan. He is quoting the Prime Minister. I know the Prime Minister very well. I know he can speak for himself. I also know his personal assistants and they do not include Dr. Khalwale. If there is any maize that is going to Southern Sudan, Dr. Khalwale should tell this House and the nation what the Minister is doing to ensure that while Kenyans are suffering from hunger, maize does not leave this country for other destinations. I told this House, as a Minister, that there was, in fact, a formal request by the Government of Southern Sudan, which was brought to my attention. I showed this House a response which I made telling, the Government of Southern Sudan that there was no maize available in Kenya for us to export to them. That shows a Minister who understands the reality of the situation in Kenya.

I went further to gazette the banning of export of maize from any of our ports to demonstrate yet again my commitment to ensure that no maize leaves the country while Kenyans are suffering from hunger. Those are the steps that I took. If there are any criminal elements that are known to Dr. Khalwale, he would do this country a great favour if he took those criminals before the law enforcement agencies so that we can subject them to the due process of law.

Mr. Deputy Speaker, Sir, Dr. Khalwale has said that I told this House that on 30th June, 2008, there were 1.6 million bags of Strategic Grain Reserve (SGR). Again, I want to reiterate my position. As of 1st July or 30th June, 2008, the country had 1,666,852 bags of 90 kilogramme maize. I further state that on 1st April, 2008 - and that is, perhaps, why the hon. Member is bringing the confusion - there were 841,620 bags of commercial maize. The authoritative position from the Minister responsible is that we had 1,656,852 bags of maize in our Strategic Grain Reserve (SGR). We have since enhanced that position by buying from our local farmers 647,927 bags. That was two weeks ago. We imported from South Africa 1,790,000 bags. We imported from Tanzania 45,000 bags. That means between 1st July and a week ago, we had used 4,140,656 bags.

Mr. Deputy Speaker, Sir, I have gone ahead to enumerate to the House how the 2,077,000 bags were distributed by the National Cereals and Produce Board (NCPB) between 1st July and 30th October. It was 30th of October because that was the period when allegations were made that certain non-deserving companies got maize. Let me state for the record that the NCPB Act, which is the law that guides NCPB, allows the Board to sell maize to millers, distributors, traders, individuals and any other Kenyan who goes before the Board to buy maize. Maize is not a contraband product. Maize is a product that is traded freely in the country. Therefore, there is no crime in any Kenyan going to buy maize from NCPB. Crime arises if somebody buys maize from NCPB and does not pay for it. I want to assure this House that no single bag of maize was picked from NCPB and not paid for. Every bag of maize was paid for. If there is any information to the contrary, I would be happy to know.

Mr. Deputy Speaker, Sir, Dr. Khalwale has also alluded to notes. I told this House, and I want to repeat, that William Ruto, as the Minister for Agriculture, did not write any note to NCPB or anybody to issue maize. That is not the business of the Minister for Agriculture. However, I write notes myself. I write many of them any day, to request people to assist others. I am yet to be told that there is any criminality in me writing a note to somebody to ask them to assist others. I am yet to know that. Let us be candid, truthful and honest. I want to be told that because of this note, this law was broken. This note influenced the Board to do what they should not have done. That would carry weight before this House. Many hon. Members of Parliament here write notes to me to request for my assistance on this or that. If we criminalise that, no Member of Parliament will ever write a note for assistance, what are we saying? Are we really trying to respond to issues or are we trying to create scapegoats. If the hon. Member could prove that, indeed, Board members are complaining that So and So wrote to us this note and, although we were supposed to do this, we did not because this note instructed us to break the law, then I will take action against those who wrote the notes. Let us be focused on what we want to do because writing a note to say "please assist", how does that amount to criminality?

Mr. Deputy Speaker, Sir, Dr. Khalwale has talked about un-procedural release of SGR by managers. Authority once obtained from the SGR Trustees, the NCPB uses its own committees to determine who they sell the maize to. So, all the managers who sat in committees and allocated maize were allocating maize for which authority had already been obtained for sale to either private individuals or millers. The NCPB Act empowers the Minister that, once there is a problem, to limit the persons to which the maize can be sold to. When it became necessary for us to limit the persons to which maize could be sold to, I took that action and instructed NCPB to sell maize to millers and individuals in rural areas only. That is why in November, December and January, we had sold maize only to millers. That is a provision of the law. In ordinary circumstances, anybody can buy maize from NCPB. Anybody can buy beans, rice, fertiliser and all other products that NCPB sells.

Mr. Deputy Speaker, Sir, when Dr. Khalwale says the Board of Trustees signed a letter authorising the sale of maize to un-deserving companies, what does he mean by un-deserving companies? What is the criteria for establishing deserving companies. The law is clear that you sell to any Kenyan. The Board is within the law to sell to any Kenyan any maize at any one time. We have

areas where we do not have NCPB and there are traders who specialise in taking maize to those areas. They buy from the Board and take maize to those areas. Those areas also do not have millers. We have millers in some parts of the country. In other parts of the country, we do not have millers. So, when Dr. Khalwale says un-deserving companies, which criteria is he using? Which law have they broken? Which procedure have they broken?

Mr. Deputy Speaker, Sir, Dr. Khalwale has alleged that I have not fired the Managing Director, Marketing Manager and the Accounts Controller. He has continued to allude, very unfortunately, that it is because I have motives behind my inaction. My operations as the Minister for Agriculture have always been above board, and they will continue to be above board.

Mr. Deputy Speaker, Sir, I announced to the country the management changes at the National Cereals and Produce Board (NCPB), and clearly stated then the basis of the changes that we had effected. We had looked at the operations of NCPB and realised that it is going to play a much more central role, especially in an era where there is food shortage in the country. There is a food crisis in the whole world, and because of the central role NCPB is going to play, it was necessary to re-organise it, so that its operations are in tandem with its mandate. We contracted the firm of Deloitte and Touche to give us an assessment. That was in October, 2008. They had to give an assessment of how restructuring could be done at the Board. When we received that report, and after consultations, we thought it was a good report and we went ahead and implemented it.

We have not received the report from the Criminal Investigations Department (CID), the Inspectorate of State Corporations or from the Kenya Anti-Corruption Commission (KACC) on this matter. Once we receive these reports, and they incriminate the Managing Director or the Marketing Manager, or any other official of the Board, we will take decisive and firm action.

I cannot take action on the basis of allegations. In fact, the issue of the Chairman of the Board was raised. If, indeed, this House feels that the Chairman of the Board is not fit to hold that office, it has the necessary machinery to establish the truth or otherwise of the allegations that have been made against this person. If those allegations are confirmed by this House, using the processes provided for by the Constitution, and by the Standing Orders, the Government will take action on the basis of the position taken by the House. But we cannot, as a Government, act on allegations. They have to be substantiated. Otherwise, anybody can stand up and make allegations against another. If it goes to that level, then we will never get this country going.

Mr. Deputy Speaker, Sir, allegations have also been made about AMACO. AMACO is a private enterprise, and I have shares in it the same way I have shares in Kenya Airways and Safaricom, just like many hon. Members here. Everybody has bought shares in any company. If there are things that were done by that company, as the management, they should be able to carry their own cross. If there are any illegalities that were engaged in by the management of AMACO in their corporate capacity, then they should face the law like any other company or Kenyan.

Regarding the e-mails that have been tabled here by Dr. Khalwale, they are remote to me. To the best of my knowledge, several companies were contracted to supply jute bags. In fact, if there are any issues surrounding the jute bags, I will instruct the Kenya Anti-Corruption Commission to carry out investigations, so that if there is any criminality and if there is anything that was done in contravention of the law, the people concerned should face the law. That is my position.

Mr. Namwamba: Mr. Deputy Speaker, Sir, this House, being the manifestation of the sovereign will of the people of this country, must not, at any time, be seen, or even contemplated, to condone corruption in any form. Therefore, if there is any Member of the Government, however high or mighty, even if it is the Head of the Government, or State, who is engaged in activities that are not in the best interests of this Republic, we must not hesitate to take decisive action against them. But the war against corruption cannot ride on a rumour-mill and on will of speculation. We would considerably lower the dignity of this House if we reduce this Floor to a platform for posturing,

speculation and rumour-milling for the cameras.

I want to pose three fundamental issues: First, the notion has been spread that trading in maize in this country is illegal, and that the NCPB cannot, and must not, engage in any activities related to commercial dealings in maize. With me, is a copy of the NCPB Act, which gives us the powers and functions of the NCPB. If the Minister is not aware---

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

Mr. Namwamba: Mr. Deputy Speaker, Sir, I am on a point of order!

Mr. Deputy Speaker: Order! You are seeking clarification! Mr. Imanyara, proceed!

Mr. Imanyara: Mr. Deputy Speaker, Sir, the Minister clearly answered that question. He said that NCPB sells maize to everybody. So, what point is the hon. Member telling us about when he is just repeating what the Minister has already said.

Mr. Deputy Speaker: Mr. Namwamba, indeed, seek clarification on the Ministerial Statement.

Mr. Namwamba: Mr. Deputy Speaker, Sir, while the Minister clarified that issue, it is in order that it goes on record. This debate is being recorded in the HANSARD. It is in order that we make it absolutely clear that the NCPB Act, Sections 4 and 14 make it absolutely clear that the Board has the authority to buy, sell---

An hon. Member: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I am building my clarification.

Mr. Deputy Speaker: Proceed and seek your clarification!

Mr. Namwamba: Mr. Deputy Speaker, Sir, when we make allegations on the Floor of this House, we must produce complete information. In the exercise of its statutory mandate, the NCPB has engaged in commercial activities.

The Minister gave us a list of companies that have been engaged in commercial activities with the NCPB. Acting on the basis of that list, we did conduct a search at the Registrar of Companies. I would have expected that any hon. Member who comes here to seek clarification, or shed light on this matter, would come with complete information.

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

Mr. Deputy Speaker: Order, hon. Members! Order, Mr. Namwamba! The Chair has given all of you a lot of leeway in interrogating this issue because of its sensitivity and presence in the public domain.

Nonetheless, we do not have to divert that extensively contrary to the provisions of the Standing Orders, which say that when seeking clarification on a Ministerial Statement, you have to stick to the content of the Ministerial Statement. That should have been the case for everybody; it should be that way for everybody.

Proceed!

Mr. Namwamba: Mr. Deputy Speaker, Sir, I will quickly conclude. The point I am coming to is this: As a Member of this House, I have conducted a search at the Registrar of Companies and I have a portfolio of companies here which I would have expected for purposes of the record, that these details---

Mr. Deputy Speaker: Order! Hon. Namwamba, I am still not getting a question that seeks clarification from you.

Mr. Namwamba: Mr. Deputy Speaker, Sir, this is my clarification. I wish to table this list.

Hon. Members: Aah!

Mr. Deputy Speaker: Order! Hon. Members, the mandate and authority of accepting tabling or non-tabling of documents lies with the Chair. Hon. Members, allow the Chair to play its role in this House. Hon. Namwamba, for the very last time, unless you want to cede your chance, please stick to the rules. Seek clarification from the Minister. Do not use the opportunity to make a statement!

Mr. Namwamba: Mr. Deputy Speaker, Sir, in furtherance of seeking clarification, there is information that has been provided on this matter that is incomplete and we cannot debate this matter without the fullness of this information. Therefore, I---

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

Mr. Deputy Speaker: Order! Hon. Members, you are out of order!

Mr. Namwamba: Thank you, Mr. Deputy Speaker, Sir. If the Minister is not familiar with this information, I want to supply it to him which proves that besides---

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

Mr. Deputy Speaker: Order! Hon. Members, the Chair is going to assert the order of the House and asserting, it will do. Hon. Members, the hon. Member has the right under the Standing Orders to offer information to the Minister but it is up to the Minister to accept that information or not. Nonetheless, hon. Namwamba be precise and do not take more than one minute so that other Members can contribute.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I would want the Minister to provide further information on a company listed on this list. This company is listed as having procured maize on the 22nd day of October. The directors of this company include one, Lucy Kibaki and a Member of this House that I will not mention, that is closely associated with her.

Hon. Members: Aah!

Mr. Deputy Speaker: Order! Order, hon. Members!

Mr. Namwamba: Mr. Deputy Speaker, Sir, can I proceed since I am not done?

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

Mr. Deputy Speaker: Order! Hon. Namwamba, seek the clarification.

Assistant Minister for Roads (Dr. Machage): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Dr. Machage! You are out of order!

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Karua! The Chair is on its feet! Hon. Namwamba, seek the clarification.

Hon. Members: Aaah!

Mr. Deputy Speaker: Order! Order, hon. Members, the Chair is the Chair that you have all known. The rules of the House are going to be strictly adhered to in accordance with the Standing Orders, the Constitution of this country as well as the laws. Under the circumstances, the hon. Namwamba can seek clarification for not more than one minute and in the process make sure that he seeks that clarification within the confines of the Standing Orders. Do not introduce the name of a

sitting Member of Parliament or a citizen of this country who under the circumstances cannot defend himself or herself for that matter.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir. Standing Orders are clear that a Member has to be responsible for what they say. We would want the Member to substantiate the name-dropping of the First Lady's name in this House. Let him substantiate!

(Applause)

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

Mr. Deputy Speaker: Order, hon. K. Kilonzo! He is responding to the point of order in the process of seeking clarification. Hon. Namwamba, you are on the Floor!

Mr. Namwamba: Mr. Deputy Speaker, Sir, I substantiate the information I have given and I provide a list not only on the directorship of Gingalili 1968, Limited but on a host of other companies that have been listed in the information provided by the Minister and if he requires substantiation, allow me to table this information.

Mr. Deputy Speaker: Table it!

Mr. Namwamba: Mr. Deputy Speaker, Sir, I table it.

(Mr. Namwamba laid the document on the Table)

Mr. Deputy Speaker, Sir, quickly as I finish, I think whenever we provide information to this House, especially when we speak in the capacity of any House Committee, we owe this House the responsibility to provide complete information.

Finally, I would seek---

Mr. Deputy Speaker: Order! Hon. Namwamba, I think you have exhausted your time.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I plead for one more minute. Documents have been tabled here---

Mr. Deputy Speaker: Order! If you have issues with the documents that were tabled here, you can rise on a point of order and seek clarification.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Deputy Speaker, Sir. The documents tabled are not authenticated. Therefore, I believe you should give guidance. They are not documents that under the Standing Orders can be relied on by this House. They are unsigned and unauthenticated.

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. Unless she wants to engage in double application of the law, documents have been presented here including e-mails and other documents that have not been signed.

You have allowed hon. Dr. Khalwale to stand here and peddle rumours and even read and table documents here and most of those documents have not been signed.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Order, hon. Members! The admission or in-admission of documents that were tabled here is on the Chair. Their scrutiny and verification will be done by the direction of the Chair. The Chair will go through all these documents and if any of them indeed will be proven to be some kind of a fake or hoax and not in line with the assertion of the Member of

Parliament, I hope all the Members of Parliament in here do understand the consequences of such an action.

However, in as far as the tabling is concerned, anybody can table any document but it is up to the Chair to verify them and come back to the House again and rule on them. Hon. Namwamba, have you tabled those documents? Are you taking the responsibility for tabling those documents?

Mr. Namwamba: Mr. Deputy Speaker, Sir, I have tabled those documents but I seek your indulgence on another matter if you grant me one minute.

Hon. Members: Aah!

Mr. Deputy Speaker: Order! Hon. Members, as much as most of you are actually first timers in this Parliament, you have been here for more than a year now. When the Chair is on its feet, you all freeze and in these circumstances you sit down.

Hon. Namwamba, what looks like you are seeking is the authenticity of the documents that were tabled by hon. Khalwale. You do not have to rise on a point of order to draw the attention of the Chair to that. The Chair will, in any case, proceed and verify the authenticity of those documents that were laid and will in due time come back to the House and make a ruling and report back to the House.

The Assistant Minister for Energy (Mr. Keter): Mr Deputy Speaker, Sir, in view of your ruling, would I be in order to suggest that all the documents which have been laid on the Table should not be accepted until you give the direction for them, one by one?

Mr. Deputy Speaker: Yes, that is the ruling of the Chair.

The Assistant Minister for Energy (Mr. Keter): What would happen to the information which has been said in relation to those documents which have been laid on the Table?

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to request, apart from the issue of millers and---

(Loud consultations)

Mr. Deputy Speaker: Order! Hon. Members, should you want to consult, do so in very low tones.

Proceed, Mr. Wamalwa!

Mr. Wamalwa: Mr. Deputy Speaker, Sir, apart from the issue of millers, there were other clarifications. Would we be allowed to seek further clarifications?

Mr. Deputy Speaker: Proceed!

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I think we seem to have been lost in concerns about millers, who got how many bags and who sold where, that we have forgotten the farmer. The Minister mentioned an issue in his Statement last week about the price of maize. The farmers have been seeking a price of Kshs2,500 for every 90 kilogramme bag.

The Minister indicated that the Government will now buy maize from farmers at Kshs2,300. Is the Government aware that farmers have not accepted the price and are still seeking the price of Kshs2,500 since the Government is willing to buy maize from farmers outside Kenya for a higher price?

Secondly, Mr. Deputy Speaker, Sir, I wish to seek a clarification from the Minister---

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! We all know that the core business of the House is Government Bills. We have taken a lot of time on the Ministerial Statements. Under the circumstances, with the final clarification that was sought by Mr. Wamalwa, the Minister will respond

to those two clarifications.

(Loud consultations)

Order! Order! Hon. Members, please, do not engage in the manner we are trying to engage in doing the business of the House. The Chair is making a ruling. You should all be quiet and listen to the Chair. Do not try to influence the Chair by side talks and shouting from the benches. It is not good decorum. It is not in line with the dignity of the House and hon. Members conduct. We will take exactly one more clarification but not on this session. The matter is now postponed to Thursday afternoon after Question Time. In which case, there will be no further seeking of clarification.

Mr. Minister, make your final clarification in less than five minutes.

*(Mr. K. Kilonzo stood
up in his place)*

Mr. K. Kilonzo, one more time and you will clearly face the wrath of the Chair and that applies to every other hon. Member who is here. This House will conduct itself with a lot of decorum.

Mr. Minister, proceed, and give your responses. For God's sake, do not take more than six minutes.

Mr. Wamalwa: On a point of order, Mr. Deputy Speaker, Sir. I had not finished---

Mr. Deputy Speaker: You are out of order, Mr. Wamalwa. You did.

The Minister for Agriculture (Mr. Samoei): Mr. Deputy Speaker, Sir, with respect to the issues that were raised by Mr. Namwamba, I do not think I have anything to respond to. I would however, want to say that the Chair should scrutinize all these papers that have been laid on the Table, including e-mails, to establish their authenticity so that we do not drag the names of citizens who have no means of defending themselves in this House, including that of the First Lady. I think we should be careful as a House not to engage in a lynch exercise that destroys people who have no means of defending themselves.

Mr. Deputy Speaker, Sir, in response to Mr. Wamalwa, in response to matters raised before this House, in response to issues raised by farmers, the Government undertook to buy maize at Kshs2,300. The reason why there has been a small hitch is because of the documentation between the Treasury, which was supposed to release the money, the Ministry of State for Special Programmes and the National Cereals and Produce Board (NCPB). I want to assure the House that we had a final meeting last evening and from this morning, the farmers have been paid the new price and they are delivering their produce to the NCPB.

Mr. Deputy Speaker: Ms. A. Abdalla, I know you did seek the indulgence of the Chair to give a Personal Statement, but under the circumstances, we have got a very important business that has to be transacted today. The Chair will nonetheless give you an opportunity tomorrow in the afternoon to give your personal statement.

Next Order!

Ms. A. Abdalla: Mr. Deputy Speaker, Sir, arising from what Dr. Khalwale has said, I think you should give me a chance to say the things I want to say. You allowed Dr. Khalwale 30 minutes to spoil people's names and you cannot allow me a ten-minute presentation to give a Personal Statement.

Mr. Deputy Speaker: Ms. A. Abdalla, you will have your moment to give your Personal Statement tomorrow in the afternoon after Question Time.

Next Order!

BILL

*Second Reading*THE CONSTITUTION OF KENYA
(AMENDMENT) BILL*(The Minister for Justice, National
Cohesion and Constitutional
Affairs on 29.1.2009)**(Resumption of Debate
interrupted on 3.2.2009)*

Mr. Deputy Speaker: Mrs. Shabesh was on the Floor.

Mrs. Shabesh: Mr. Deputy Speaker, Sir, I had began yesterday in support of this Bill--

(Loud consultations)

Mr. Deputy Speaker, Sir, could I seek your protection?

The Assistant Minister for Tourism (Ms. Mbarire): On a point of order, Mr. Deputy Speaker, Sir. The House cannot transact its business this way. Mrs. Shabesh cannot be heard. She has been seeking your indulgence. I do not know what is going on.

Mr. Deputy Speaker: Hon. Members, let us maintain the silence that we need to listen to Mrs. Shabesh.

Mrs. Shabesh: Mr. Deputy Speaker, Sir, I really would seek your indulgence because I think we are debating something that is very sensitive to this country.

Mr. Deputy Speaker, Sir, I started yesterday by supporting the Constitution of Kenya (Amendment) Bill. The reason why I speak today with a heavy heart is because of the things which are going on in this House. That is the very reason why any business of this House cannot be trusted to individuals. It can only be trusted in the Constitution. The Constitution of Kenya (Amendment) Bill to allow for the special tribunal--

(Loud consultations)

Mr. Deputy Speaker, Sir, I really feel that I cannot go on to give the point of view of women with the total indignity that this House is according me.

(Loud consultations)

Mr. Deputy Speaker: Order! Order, hon. Members! Mrs. Shabesh shall be heard in silence! If you have to consult, try to do so in silence!

Proceed, Mrs. Shabesh!

Mrs. Shabesh: Mr. Deputy Speaker, Sir, I will ask you to also, kindly, listen to me. I am speaking here today, not as Rachael Shabesh, but a representative who today morning had breakfast with women Members of Parliament and members of the civil society, and who later on, went to the grassroots, in the slums of Kiambiyo to ask the women there whether they want a Special Tribunal. We are trying to do what we think is right for this country.

The process in which this debate started is, probably, what is bringing the biggest confusion. The question should be: Do we want a Special Tribunal? Do we want it entrenched in the

Constitution? But the Order Paper asks us: Do you want a constitutional amendment to entrench this Special Tribunal in the Constitution? We, as women, have very big issues with the Bill, as it is. We see many gaps in this Bill, which do not necessarily show a clear process that will be open and transparent.

Mr. Deputy Speaker, Sir, on the issue of constitutional amendment, we, as women, are saying that if we have a tribunal, it must be anchored in the Constitution. Since you have asked us first whether we want it anchored in the Constitution, we are answering "yes". Now, when we come to debate the Special Tribunal Bill, we will then tell this House, we, as women, where we have issues with it, clarification is needed, so that we stop looking like we have no issue with the Special Tribunal, and that all we want is for it to be entrenched in the Constitution.

I do not want to pre-empt debate on the Special Tribunal Bill. I am saying, the Constitution is the supreme law of the land. We have seen all types of commissions in this country, whose reports were thrown to the dogs when issues became hot. The Waki Commission gave a way in which this issue should be treated; either constituting a tribunal or taking the matter to the Hague. Therefore, there is a possibility that there will be a tribunal. We are saying, if there will be a tribunal, let it be anchored in the Constitution.

Mr. Deputy Speaker, Sir, I do not want to pre-empt debate on the Bill for the creation of the tribunal. We will bring issues which are dear to women when it comes to debating the Bill for the creation of the particular Special Tribunal and its formation, with a view to seeing whether or not it will protect women. We will bring up those issues then. For now, we are supporting that if there will be a tribunal, it must be entrenched in the Constitution.

With those remarks, I beg to support.

Mr. Kombo: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to make my contribution on this very important issue.

This House, last week, unanimously passed a Motion for the adoption of the Waki Report.

Hon. Members: Volume! Volume!

Mr. Deputy Speaker: Mr. Kombo, given that you are not feeling very well, it would not be a bad idea for you came to the Dispatch Box even though you are not a Minister. Maybe, you could come closer.

Mr. Kombo: Mr. Deputy Speaker, Sir, I will speak from the Opposition side.

Mr. Deputy Speaker: Mr. Kombo, with the leave of the Chair, you can use the Dispatch Box of Cabinet Ministers, especially given that you are sick today. I wish a very quick recovery.

Mr. Kombo: Thank you, Mr. Deputy Speaker, Sir.

I was saying that only last week, this House, unanimously, adopted a Motion, adopting the recommendations contained in the Waki Report. In Chapter 13 of that Report, it is recommended that the Report be implemented under the auspices of the President, the Panel of Eminent Persons and the Prime Minister, with full co-operation of Parliament and the Judiciary.

Indeed, in adopting the Report and, subsequently, holding to Kenyans the principle that Justice Waki propounded, through his Report, and the amendments that were agreed upon in Mr. Speaker's *Kamukunji* meetings, we agreed to move forward. Having arrived at that position, we are now supposed to try and implement recommendation numbers one and two, that require that we establish a Special Tribunal and ensure that, that tribunal is anchored in the Constitution.

Mr. Deputy Speaker, Sir, it is important for us to anchor the Special Tribunal in the Constitution. As we all know, many Kenyans are very fond of litigation. Given the opportunity, some people would, through a legal process, try and destroy what we are trying to do. In exercising our constitutional mandate, as Parliament, under Section 30 and 46 of the Constitution, we should now move forward and pass the Bill as requested, so that we can move forward.

There is a lot of obsession about the Hague, but what we must appreciate is the fact that in the crisis that we had in January, 2008, there were thousands and thousands of people involved. More

than 1,000 people were killed. If we are to go to the Hague, it would mean that we have to take more than 1,000 people to the Hague. That is not possible. However, we can have an opportunity to administer justice locally to perpetrators of the killings.

Mrs. Shabesh has alluded to the fact that when it comes to looking at the Bill that will create the Special Tribunal, we can move amendments in that Bill to make sure that certain cadres of the perpetrators go to the Hague, while the small persons, who cut-off the head of another person, or torched the house of his neighbour are tried in special courts locally. We can only do that if we actually pass this Constitution of Kenya (Amendment) Bill. We will not be able to set up special magistrates' courts unless this Bill goes through.

It is for that reason that I want to, briefly, say and persuade my colleagues in the House that we, indeed, do pass this Bill, so that we can be able to set up the special magistrates' courts. When we come to debating the Bill to set up the Special Tribunal, we can introduce certain amendments to especially delete Clause 3 and Clauses 16-24, to ensure that the bigger perpetrators go to the Hague, as the smaller perpetrators are tried locally by special magistrates' courts.

When you go around the country, the small person whose house was torched is looking at the neighbour that torched that house. He or she needs to see that person answering certain questions. Without that, the reconciliation will not exist. It is extremely important that we do not politicize the issue of setting up the special courts or magistrates courts; that we do not politicize debate on this Bill but we should look at it very, very soberly. It is not about scoring political goals here and there, because the person in the village whose house was torched has no time to score. All they want is to seek reconciliation and this Bill gives us an opportunity to get that reconciliation.

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

Mr. Baiya: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. I am also speaking as a member of the Parliamentary Select Committee on the Administration of Justice and Legal Affairs. We have actually also looked at this issue of the constitutional amendment and it is quite clear that the crisis that we are experiencing in this country, that requires the creation of a Special Tribunal, is a crisis that had affected this country way back in 1991. The impunity that we are talking about started way back in 1991 during the struggle to establish the multi-party system in this country. Some politicians in this country openly went out inciting Kenyans to cut--- Kenyans were flashing the two-finger salute. They were powerful people. They were not challenged and, on top of that, at the outcome of the 1992 elections, they found their way into high Government offices. That is the genesis that is very well captured in the Waki Report.

Mr. Temporary Deputy Speaker, Sir, in 1997, they replicated the experience they learned in 1992, even with more determination. That is really the lesson that we learn about impunity. In 2002, it abated a bit. There was no space for the forces of impunity. But in the year 2007, we saw the cumulative effects of impunity.

It is actually my view that, if we do not deal decisively with that impunity, we can as well forget about ever having any peaceful elections in this country! I am saying that with conviction because the Kenyans who died; the Kenyans who were forced to migrate from their places just because they exercised their democratic rights in one way or the other, would actually prefer to forfeit their democratic right to participate in the elections, rather than to suffer the consequences that they suffered!

Mr. Temporary Deputy Speaker, Sir, I believe the reason why we are seeking to amend this Constitution is to, once and for all, contain the culture of impunity. We know within ourselves that those who have benefitted from that impunity have powerful influences, even in this House. Indeed, it took the intervention of the international community to get them to concede to this process that we are seeking to entrench in this constitutional mandate. It is very regrettable that those forces are still at play at this very hour. The outcome of this Bill is, as of now, uncertain!

Mr. Temporary Deputy Speaker, Sir, it is being pointed out that if we lose this [Mr. Baiya] Bill, we could go the Hague way. I want to agree with hon. Members who are very categorical that the International Criminal Court (ICC) is an international body. It is a very new idea. How it was created is very clear. Just here in Rwanda, it took the international community to witness the mass massacre of over 1 million people to agree to set up the tribunal. That was after all the calamity had happened! We also know about the calamity that has taken place in Darfur, Sudan. It is only now that they are talking about setting up one.

In Liberia, where they tried some people, the amount of calamity was also very substantial! It is also the same in the former Yugoslavia. What happened in Kenya in 2007 was tragic and really tragic. But it is not sufficient to call for the intervention of ICC. We need to accept as a country that the international tribunal could only come in when we have failed to curb impunity, and when our actions can affect the whole international peace and stability.

So, if we want to say that the ICC could really be an option, it will possibly be after more calamities have happened in this country. So, those who are promising Kenyans that the Hague is an option, I want to say that they are not aware of what they mean. All Kenyans will be disappointed when they learn that none, perhaps nobody, will actually take any prosecution under that system.

So, Mr. Temporary Deputy Speaker, Sir, it is, therefore, incumbent - and I want to agree with hon. Mutula Kilonzo on what he said yesterday. It is the responsibility of the people who signed the peace accord! They actually committed to mobilise hon. Members of Parliament to ensure that they supported this Bill. We want to see them do that. That will ensure that this thing does not fail. It will also ensure that impunity is curbed. Kenyans will feel free and live in the belief that they can exercise their democratic right tomorrow, regardless of their ethnicity or their place of origin. The very democratic rights that are clearly enshrined in the Constitution.

Mr. Temporary Deputy Speaker, Sir, it is also true that if this country wants to be seen, at the international level, as upholding the rule of law and democracy, at the very minimum, we must demonstrate that we are in charge of our own affairs. We are not going to invite international courts to deal with us because we have failed. If we think that we can actually fail and allow impunity to continue, then our unity as a country will be substantially damaged. Our reputation and all the other goals that we have set to achieve as the Coalition Government will be in serious jeopardy.

For those reasons, Mr. Temporary Deputy Speaker, Sir, I support the amendment to the Constitution to ensure that the tribunal is properly entrenched in the Constitution to safeguard against any constitutional objection, and to ensure that the mechanism that will ensure that there will be no impunity in future is clearly set in place. To the sceptics, if we had actually taken action way back in 1991, the impunity that we are talking about would not be there!

If the proposed tribunal is enshrined in the Constitution, that will ultimately ensure that there is no impunity. There is nobody who is above the law; it is only that the State mechanism was allowed to ignore the law. If this process is meant to revive that process, let us support and I believe that the sceptics will have their say. But if we give in, we will also have given in to the forces of impunity.

With those remarks, I beg to support.

The Minister for Environment and Mineral Resources (Mr. Michuki): Thank you, Mr. Temporary Deputy Speaker, Sir, for granting me this opportunity to contribute to this Bill and to first declare that I stand to support it. To support the need, and even join those who have done so, to have the Constitution amended in order to provide for all those matters that are now reflected in the draft Bill.

Listening to some of my colleagues, it would seem that there is some fear that even though we might pass this law, it will not be implemented; there are some views that we would rather have those affected taken to the Hague instead of being tried here. Those who support that point of view, I want

to challenge them that they have not thought deeply about the issues that are involved. This case is like that dilemma in some people---

*(Mr. Imanyara entered
the Chamber)*

Mr. Imanyara is up to something!

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir. Let me assure the Minister that---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Imanyara! Do you have a point of order?

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that I am up to something when he knows that I want to speak and oppose this Bill?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Speaker, Sir, I wanted him to look happy, because he moves Motions with anger.

(Laughter)

I am pleased that my friend can now smile, because that is important for a debate as important as this.

We are an independent country. We are sovereign in all respects as was explained here yesterday during the same debate by eminent lawyers, lawyers who value the sovereignty that cannot be sacrificed for anything. Wars have been fought all over the world over sovereignty. People have offered to be killed to defend their own sovereignty, yet in this House we seem to have a few people who think that the alternative to the amendment to the Constitution is to allow those involved in the skirmishes of last year to be taken to the Hague. In the same token, if they are taken to the Hague, we shall cede our own sovereignty, and we will cease to be sovereign. Unless this House is saying that we have given up our sovereignty, for anybody to suggest that matters which we can handle in this country should be handled in foreign courts, that person would rather never have been born.

Mr. Temporary Deputy Speaker, Sir, it is being argued that in the proposed tribunal, we shall have some foreigners. Of course, they will be there. They will be our employees and we shall control them! We cannot control the Hague!

Mr. Imanyara: The control is the problem!

The Minister for Environment and Mineral Resources (Mr. Michuki): No! Mr. Temporary Deputy Speaker, Sir, I am saying that they will come under the sovereignty of Kenya. Although we may not control the interpretation attached to it by Mr. Imanyara, they will be under our sovereignty. They will be within Kenya where we have the final say.

An hon. Member: That is the problem!

(Laughter)

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Speaker, Sir, we, as a sovereign State, must have the final say. So, I am supporting the idea that we amend the Constitution.

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to suggest that the International Criminal Court (ICC) is a foreign court when we have domesticated the law establishing it, and when he knows that it was set up by the United Nations (UN) to which we have been a member since 1963? Is he in order?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Minister, would you like to clarify that?

The Minister for Environment and Mineral Resources (Mr. Michuki): Mr. Temporary Deputy Speaker, Sir, we have a substantive matter here. Are you going to allow us to engage in semantics at the expense of this debate? That is taking it very lightly as if it was not important.

Therefore, I am saying that the very fact that there has been a Commission; the very fact that, that Report of the Waki Commission was brought to this House, this House has embraced that Report, we are now coming to the end of it by passing this law, so that the impunity which has been in this country is dealt with now, and forever. This is what we are going to do, deal with impunity! We have never done that before. We have never set up a special court to deal with these matters.

We have involved international personalities in our affairs, but for the first time, because of the seriousness of the matter, we are going to do that. Therefore, I want to urge my colleagues that we save this country once and for all. Let us remove impunity! Let us get those who were involved to understand that crime, at the end of the day, does not pay, and that for every crime, there is punishment.

With those few remarks, I beg to support.

Dr. Eseli: Thank you, Mr. Temporary Deputy Speaker, Sir, for this chance to contribute to this very important debate.

Indeed, Mr. Michuki, whom I respect very much, is a person of very many years' experience and has very deep wisdom. I have been lucky to share some of that wisdom with him, and he informed me that sovereignty is like virginity: Once you lose it, it is gone! Those who are talking about passing this Bill as a way of retaining Kenya's sovereignty, should know that we lost it long ago. The moment we called in foreigners to intervene in the issues that we had, our sovereignty was gone. The moment we were struck by hunger and the first thing we did to celebrate Obama becoming President was to ask him for a loan to buy maize, we lost our sovereignty. When we cannot feed our country, we lose our sovereignty. The argument that by passing this Bill we are safeguarding our sovereignty is a lie. We lost it long ago.

Mr. Temporary Deputy Speaker, Sir, at the risk of sounding repetitive, I have said before that at Independence in 1963, we conceived two terrible twins, who were delivered in 1964 when Kenya became a Republic. The two twins were impunity and corruption. They feed on each other. When corruption is starved, it is fed by impunity. When impunity is starved, it is fed by corruption.

The biggest fear is that we all know what we should have done long ago, but we never did it. It has been cyclic for a very long time, from 1992, where we have only looked at impunity *vis-a-vis* death of Kenyans resulting from elections. But impunity has got many other faces. This is just a shed of it.

The tribunal we intend to set up based on the change in the Constitution that we want to put in place, is supposed to go a long way in removing that impunity, but the biggest fear is that when we look at the Statutes that follow thereafter, that is where the biggest fear comes in. This is because we all fear that it is being manipulated. We fear that once we pass this Bill and it is entrenched in the Constitution and then we come to the Statutes, there will be a lot of horse-trading in this House, so that we might not be able to pass the amendments we are anticipating. Yesterday, we had an example of how horse-trading can happen.

Mr. Temporary Deputy Speaker, Sir, the other day we had the same example, where we had to vote on the Report by the Committee on Finance, Planning and Trade, on the sale of the Grand Regency Hotel. For some inexplicable reasons, some Members changed and voted differently. So, even if we are assured that we can amend the Statutes on the Floor of the House, we are not sure whether we will have the numbers to do it.

We know from history what transpired over the Ouko Inquiry. Witnesses died like flies and by the time the Commission was being disbanded, it had been so discredited. Even after disbanding it, witnesses continued to die. I do not know if we are very sure of what we are doing here. While we

talk about sovereignty and many other things, probably the only good reason that I can take for wanting to pass this Bill, is that if we go to the Hague, maybe ten or 15 people might be tried while the rest will not be tried there, and we will have lost the opportunity to try them. Maybe that is the only valid reason.

Mr. Temporary Deputy Speaker, Sir, I dare say that those two twins; impunity and corruption right now are in their prime 40s. They are very strong right now in this country. My fear is that those two terrible twins are going to use that tribunal to cover up themselves, change clothes and call themselves different names, yet they are the same people. They are going to cover up and come next elections, what we had after the last elections would be a child's play. I fear that we have not been very sincere with ourselves.

If we were really sincere with ourselves, why have we gone to the extent of identifying people and saying, "this should be a foreigner and this a Kenyan?" Why did we not do the simple thing; call the United Nations (UN) to come and set up the tribunal locally? They have the mechanism, knowledge and money. Why did we try to get involved ourselves? It is because we want that chance to manipulate and be sure that we can get off the hook, so that we can continue wrecking havoc in the country the way we have done since 1963.

Mr. Temporary Deputy Speaker, Sir, I dare say that let us be very careful. I for one, I am not going to vote for this Bill. I am going to oppose it. Let me say that Kenyans want a break from the past that has impoverished them and visited hunger on them every three or so years. This was our good chance to make a clean break from the past, but I am sorry, we are mishandling it.

I beg to oppose.

The Assistant Minister for Roads (Dr. Machage): Thank you, Mr. Temporary Deputy Speaker, Sir. Let us think in retrospect and look at the history of Kenya. Let us see how commissions and legal proceedings have been carried out before we make the important decision here.

Indeed, just a few minutes ago, a senior colleague has emphasized the fact of control of this court. I am worried that we are going to make a vent or avenue for the introduction of a Bill for the creation of a Special Tribunal which is flawed. It is a tribunal that is going to push this country into another crisis of fighting. Just think about the way the Bill is. If for one reason, one of the two Principals is either by mischief or truth, actually investigated and considered to be one of the suspects to be taken to court, what will happen to this country?

Mr. Temporary Deputy Speaker, Sir, there will be war and acrimony. Let us not forget that what we have now is as a result of the two Principals and that is the truth. There were two camps; one supporting the PNU candidate and the other one supporting the ODM candidate, hence, the anarchy. Why is our memory too short? Why should we take all this waste of time and money? Why do we not accuse the two and finish? After all, everything was done in their support. This is because this Special Tribunal Bill creates no immunity to these two. We value their energy and efforts to bring this country back to peace - at least, I do - and then we throw the country again, back to the same doldrums.

For those who were born and were old enough in 1975, they would remember the death of J.M. Kariuki. That week, we saw a lot of killings by the famous Robert Shaw in this town and then the bombing of OTC offices. The City Mortuary was full just because they were preparing ground for the assassination of J.M. Kariuki. We have so many hit men in Nairobi now. The only thing the policemen do is to collect bodies of dead people in the morning and that is the end of the story and case.

At times, policemen gun down as many as five people at once and place six guns before their bodies and that is the end of the story. We are now mourning. Nakumatt Supermarket burnt down and the same week; at the epicentre of the anarchy in the Rift Valley Province, hundreds of young people have been killed by fire. Do you know the details? Have you been given the full report of investigations? Could witnesses be getting lost? I am thinking loudly. Is it a mere accident or coincidence? Which other places are going to be burnt this week? Then we push this country into a

process where the victims, who somehow know themselves, we hear rumours and some of them say, "I know I am in the envelop". I do not know how they have got to know. One fact we know is that some witnesses who testified at the Waki Commission are known. They are out there. They are afraid and tormented. Maybe some of them are already dead.

Let me say this; the best way forward is to give everybody a chance. Let the international community take charge of the full process.

(Applause)

Even if it is one or two who will be found to fit their descriptions and they press down the scale according to their standards, let it be so.

Kenyans will not say that a certain community whose judge was a member of the local or magistrate court, has sentenced our own member. We cannot hide our heads in the sand like an ostrich. Tribalism is rife in Kenya! It is here. We must take heed not to open another gate for anarchy. Rwanda is still surviving. Has she lost her sovereignty? Have they? Has Germany lost her sovereignty just because their citizens are still being tried for the holocaust cases? No! We should not let the process to be manipulated by the people who have already made a lot of money. They have the capacity and ability to protect themselves once the court is brought to our own soil.

Mr. Temporary Deputy Speaker, Sir, I beg to differ with my Cabinet colleagues. This is because I am a citizen. Kenyans suffered, died and lost property. I also lost property. In one day, I lost property worth Kshs5 million in Migori Town just because I belong to another community. It is not that I am crying so much. I am able to eat. I have a house. Other Kenyans do not have that opportunity. They live in tents. Children have died. They have suffered pneumonia from the rains. They have also suffered hunger. I appeal to all Members, when you see a problem coming, please, arrest it before it visits your door. Do not open this gate for this Bill to drop on the Floor of this House where unfortunately, it might escape and pass.

Mr. Temporary Deputy Speaker, Sir, for those women who complained and took their case to one lady hon. Member, who has rightfully cried on the Floor of this House, the only justice they can do to them with a Bill they have found to be inefficient, is not allow it on the Floor of this House. You will have done your job honourably.

I beg to oppose.

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, first and foremost, let me say from the outset that I believe in sovereignty of this country. The challenge that we have is not about the sovereignty of the country. I also believe that there is need to end the culture of impunity. I want justice to be done. I want to get to the root cause of the atrocities that happened early last year. I know people died and houses were burnt. I know women, and even men, were raped. However, I must say that the Constitution of Kenya (Amendment) Bill does not have the capacity to deal with these issues.

Mr. Temporary Deputy Speaker, Sir, first and foremost, it is vague. It is subject to manipulation. It is vague in the sense that we do not know whether the prosecutor is subject to the powers of the Attorney-General. It is vague in the sense that we do not know whether the judges who will be in the special court or the magistrates are subject to the Constitution. The statute that is to be forwarded after the Constitution is passed does not have a provision in which the victims themselves can seek remedy or can be provided remedy if they were not to be represented fairly.

Mr. Temporary Deputy Speaker, Sir, there is no provision for a civil process as far as a remedy is concerned. I particularly take exception with the manner in which this Bill was introduced to the National Assembly. The Government rightly knew that there was a deadline approaching and for that reason, they had three months. Why did they wait until the last 24 hours to conveniently sneak in

the Constitution of Kenya (Amendment) Bill? If justice is delayed in this case, and for that matter denied, that justice has been denied by the Government. For some who talk about the sovereignty of this country, and I want to support my colleague, we lost our sovereignty when we failed to protect our own people.

Mr. Temporary Deputy Speaker, Sir, I would propose that we should not be vague. We want the key perpetrators of this particular atrocities to go to The Hague because we have developed a culture of impunity. We have seen many times from when this House came into being politicians preside over the cannibalization of State resources. Now there is a new adage that Members of Parliament eat maize and drink oil. For that reason, I feel that this House and in particular, the members of this country do not have the protection---

The Assistant Minister for Education (Prof. Olweny): On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the hon. Member say that Members of Parliament eat maize and drink oil? Could he substantiate? Even in the names of companies that were laid on the Table, I did not hear the name of Members of Parliament.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Nguyai, could you make that clear?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, I said and I want to clarify that there is an adage and hon. Members have heard it. I can define the adage which is the perception that Members of Parliament eat maize and wash it down with oil.

Mr. Affey: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to suggest that Members of Parliament, which means even the Chair, eat maize and drink oil?

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Nguyai! Will you, please, drop that line of submission and proceed?

Mr. Nguyai: Mr. Temporary Deputy Sir, I will withdraw and say that some Members of Parliament eat maize and wash it down with oil!

My concern is that in the Special Tribunal for Kenya Bill, the witness protection clause is vague. Witnesses have no right to hide their identity. They have no right to be sheltered and protected---

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order to anticipate debate? He is talking about the Special Tribunal for Kenya Bill and yet the Bill before the House is the Constitution of Kenya (Amendment) Bill. There is the rule of relevance in the Standing Orders.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Nguyai, are you anticipating that debate?

Mr. Nguyai: Mr. Temporary Deputy Speaker, Sir, I am not anticipating debate on the Special Tribunal for Kenya Bill. I was just clarifying that if we pass this Constitution of Kenya (Amendment) Bill, we shall be opening a gateway that will not help us protect the citizens of this country.

I would like to sincerely urge hon. Members to reflect and see if they are doing justice to the people of this country. We, as a leadership, have failed to protect ourselves against corruption. We have failed to protect our citizens from being exploited. They now go hungry. What makes us think that when we are implicated, and some of us will be implicated, we will fail to protect ourselves? It is for that reason that I oppose this Bill.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I stand to support this Bill. This is because the Bill is a product of an inquiry that was conducted and its report was adopted by this House. This obviously followed the elections in 2007. Kenyans had digressed from conducting elections and they decided to go to war killing each other---

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! Hon. Members, we would like to hear the hon. Member on the Floor contributing on this Bill. With the loud consultations, we cannot hear him. It is my humble submission that you minimise and lower your consultations. If you want to sneak out to consult, that is also allowed.

Proceed, Mr. Bahari!

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, so instead of going for elections, we decided to go for each other's throat. Even when we had party elections, because of losing direction, we engaged in running battles, even though, political parties represented here accepted the results of those elections conducted within them. What are we doing? Elections are supposed to be conducted in a very serene environment where people are free to exercise their will. As a country, having gone this far, that is, producing the report and adopting it, I do not think it is right to go half-way and then decide to jump onto another tide. We must complete the process.

The fact that we are a signatory to the Rome Convention should not be used to undermine the institutions of this country. What we have in this country is a challenge to show that we can do it locally and fortify ourselves against, perhaps, the fears that have been expressed by other hon. Members. Having signed and domesticated the Rome Convention, the signature alone is an expression of the desire of this country to practise good norms and ensure that there is application of justice in this country. We do not need to take our expressions to The Hague. We should bring them here so that we clean this system as much as possible and put it to test.

Mr. Temporary Deputy Speaker, Sir, looking back at what happened, I believe that it is the culture or the policy of "winner-take-it-all" that has caused so much fear in the people of this country. Nobody wants to fail or to seem to have failed. So, they try to mess up this country. It is, therefore, my view that we give it a try. The fears that hon. Members have expressed can be taken care of through a statute. The fact that we have hiccups, for example, the oil and maize saga, does not necessarily mean that we have ceded our sovereignty. There is no country that does not have a challenge. If you look at the root cause of most of the conflicts across the globe it is as a result of, perhaps, malfunctions of systems, including the financial crisis. We have heard of the Watergate Scandal. All those are as a result of malfunctions of systems. In any system, those malfunctions are there.

Mr. Temporary Deputy Speaker, Sir, this is a young democracy and I believe that we have the capacity to move forward. In Rwanda, where we had genocide, they are now in the healing process. Those who engaged in genocide and the families that were affected are now working side by side to rebuild that country. They are trying to fast-track that process. It is extremely important that we have an opportunity to repair our dented image. Outside there, whether you were involved in that exercise or not, as Kenyans, you are seen as an uncivilised people who cannot conduct elections in a peaceful environment and who see the persons with opposing views as enemies. We must get out of that. It is extremely important that we face this situation and deal with it like any other. We need to address our fears through the statutes that might follow this.

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

Mr. Lekuton: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute towards the entrenchment or anchoring of this legislation that would create the Special Tribunal in the Constitution.

Mr. Temporary Deputy Speaker, Sir, I would like to make the following remarks. We must, as leaders, be bold enough to accept that we have had many shortcomings in the past, and the public has reasons to doubt our commitment. Our people have doubted us in the past and today, as we discuss this Bill, we have the unresolved cases of massive corruption in this country. We are known as a nation of grand commissions that never act on recommendations, or even make public their results. Numerous commissions of inquiry have been established. They had serious public ramifications. Huge

sum of taxpayers' money has been thrown down the drain. Some of those commission reports have never been public or acted upon to date.

Mr. Temporary Deputy Speaker, Sir, statutory bodies such as the Kenya Anti-Corruption Commission (KACC) have, in the past, been given the responsibility to take charge of correcting the misdeeds or punishing the perpetrators of corruption. They have, more often than not, gone for the small fish and left the principal culprits walking scot-free. The undisputed fact about our country is that we have leaders who have looted and fleeced this nation. They continue to enjoy while chicken thieves spend time doing hard labour. In addition, political patronage and expediency has always affected due legal process and shielded perpetrators. Public confidence is at the all time low and impunity continues to go unabated.

The need to have a solid base to the legislation that will create a special tribunal to investigate, prosecute and punish perpetrators of the post-election violence is, therefore, justified. But Kenyans have been disappointed too many a times and have little faith in their own system.

Mr. Temporary Deputy Speaker, Sir, the victims of the post-election violence are not an exception. How can we convince Kenyans, those victims and some who may be innocently accused that they will get a fair trial in this country? Those fears are justified. No wonder many Kenyans are supporting the Hague direction! Nevertheless, that tribunal is meant for Kenyans. As a Kenyan, a patriot and a leader, I want to submit that I support this Motion because of the following reasons:-

That the freedom that we are now enjoying did not come easily. We earned it with serious sacrifices. We must not forget our struggle to gain Independence resulting in many deaths. For us to concede our Independence, our authenticity to appoint a Special Tribunal is unacceptable.

Kenya should manage its own affairs and take charge of its sovereignty. We cannot surrender or cede it to any other nation or agency. We must protect that treasured right. Once again, we can rejuvenate the positive spirit of responsibility and get our act together. We must inspire confidence, however low our country is, in our people by using legislation to end impunity.

Mr. Temporary Deputy Speaker, Sir, we must, therefore, listen to the voice of our people and seal the loopholes that would constrain or impede the smooth application of that legislation. The fight for Independence came with responsibility that we have the capacity to clean our own house. As leaders, we cannot run away from that responsibility. We have to catch the bull by the horn. Let us, therefore, not erect roadblocks in the path of that legislation.

Mr. Temporary Deputy Speaker, Sir, to conclude, because I know many hon. Members want to speak, we must insulate the Special Tribunal from presumed challenges. That is number one. Number two, we should ensure that the Attorney-General, or any other office or person, cannot terminate any case before the tribunal because they have the power to do so. Thirdly, let those implicated step aside from their offices so that they do not interfere with the investigations.

Let Parliament amend the Witness Protection Act to ensure that there is sufficient guarantee for witnesses. Let it be clearly understood that there are acceptable limits of amnesty. There should be a procedure on how to grant an amnesty. There should not be clear potential clash between the tribunal and the Truth, Justice and Reconciliation Commission. We should have a possible agreement for regulation of their relationship. If we open the door today, I can guarantee you that we will never be able to close it. We cannot close that door. The moment we let people go to the Hague, we will cede our sovereignty and capability to think as a nation and as a society. We will forever be slaves to forces that are larger than us.

With those few remarks, I beg to support.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this Motion.

First, I want to say that I support this Motion, but with so many misgivings. I will support it for only three reasons. But I have so many other reasons that will lead to the failure of this Bill. I know

it may not go through. I support it because we have to protect our sovereignty. We are not a banana republic. We are an independent State and we have to protect it. Of course, somebody said that sovereignty is like virginity. Once you lose it, it is gone forever.

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

[Mr. Deputy Speaker took the Chair]

I also support it because I know that if we leave this case to the International Criminal Court (ICC), it is very thorough. They take quite some time to investigate cases. So, we may only end up with a few people being arrested and charged in the Hague. We all know that there are so many who are supposed to be charged.

Lastly, I wish to say that the ICC is meticulous that it will only deal with the big boys and girls in this circus. So, I want us to have it in this country. I propose that we can even invite those people to Chalbi or East Pokot District or Lokitaung. Let us have them there. They can have their headquarters there. We will be happy to even donate goats to them. So, I want this tribunal established in this place because of those reasons.

But there is a danger because Kenyans believe that justice belongs to the rich. Justice in this country is actually for sale. So, most Kenyans believe that the killers or perpetrators of that crime will not face justice. There is that perception. Again, we are going to witness drama in this country. Today, a Luo will be charged. Tomorrow, is the day for the Kalenjins and the other day, for Kikuyus. Those cases will drag on for three to four years. We are going to witness drama. People will be jamming our courts just to sympathise with their kinsmen or accused persons. So, we will not even focus on development. We will just be looking at what is happening in those courts. So, that is one of the dangers.

Mr. Deputy Speaker, Sir, Kenyans have also witnessed the assassinations that took place during the time of Pio Gama Pinto, Tom Mboya, James Kariuki and Robert Ouko. Most people believe that the killers of those people are still roaming in this town, taking wine and enjoying themselves. So, they believe that those people will not get the requisite justice.

I want us to look at what happened between the Serbs and Croats in Yugoslavia. You heard of what was called forced pregnancies. In those cases, it was so horrifying. The Serb men eliminated quite a number of Croats men and impregnated their girls by force, just to create their own generation and people. That was done so that they could create their own generation, but at the time of delivery the women decided to strangle all the children that were born. It is that bitter.

Mr. Deputy Speaker, Sir, I want to say that this is a Bill that must be looked at very carefully, and I support it because of those three reasons, but there are many reasons to oppose it.

With those few remarks, I beg to oppose.

Mr. Kioni: Mr. Deputy Speaker, Sir, I thank you for this opportunity. Today is a special day for me, because on a day like today on 14th February, 1998 my nephew was murdered during the tribal clashes. He was a young student at Kenyatta University. We did try to get prosecution to a point where we had one witness who was bold enough to come to court and give evidence. In our estimation then the evidence was so graphic that we thought the culprit had been nailed. It was ruled that one witness was not adequate, and we had nothing to do. The other witnesses shied away, but had given good evidence during the inquest. My sister lived in fear, because she was trailed by the same killer for quite a while. These are very weighty issues. It is important that we pay a lot of attention to the issues of witnesses. We will not be getting anywhere if we do not put the issue of witness on top of our list.

Mr. Deputy Speaker, Sir, we have come this far and we are discussing this Bills here, but the victims are not with us. We have laid on the Table documents on, perhaps, the way it is done, but the victims do not even know what it is that we are discussing here. The victims have a different perception of what is happening. They think that this is a situation where politicians have come together to collude and protect other politicians. Given the scenarios that we have seen this afternoon and the day before, nobody has any reason to doubt that, that could just be the game. We have some work to do. This is a healing process, and it is not Members of this Parliament who are healing, but this country. It is people out there, and especially in those areas where we had difficulties, are healing. Until we are able to carry them with us, whatever it is that we do here, however good it is, it will not help this country to heal. That is where we are. Even my own constituents in Ndaragwa have no faith in what we are doing. I have tried to explain to them that the International Criminal Court (ICC) process would not take less than two years to get to somebody. Finishing the investigations alone is not going to take anything less than two years. We could go through the term of the Tenth Parliament without seeing a prosecution. We would be facing the same people who voted for us in 2012 without having charged in court even those people whom we know are obviously supposed to have been charged by now, leave alone the process being in place.

Mr. Deputy Speaker, Sir, this is a process that might help us to move quickly. But if we proceed to the vote without getting Kenyans behind us, or even getting some hon. Members to understand, because I know there are many who do not understand where we are going, we will shoot down this Bill because of very good reasons that would otherwise have changed if we had time to talk to one another and get Kenyans to move with us. The ICC that many of us seem to favour would end up with five or six people in court. We are not going to get anything more than that. We would still have missed the boat, yet if we go through this route without getting Kenyans on board then we will lose all Kenyans because they will not be with us.

Mr. Deputy Speaker, Sir as we continue debating this, it is important that we do not get to voting today on this Bill, so that we can get everybody to be with us. When we sit down and explain it to them they will understand it; we have rushed to the Floor of the House and we might vote on this Bill in a short while. I have talked to my people and they are not with us for the simple reason that we have not explained it to them. It would be very painful for me to walk around with the people I know--- The police officer who was helping us to get to the bottom of these things is already gone. He is past tense. He was taken care of. So, there are issues that we need to deal with. We are going to lose this and we will have lost the country. If we go the ICC way, we only get five people, and doing that will take us until 2013. If we go our own way without getting Kenyans to be with us, they will have no faith in the healing process; we will then be back to square one.

I plead with this House, and the Minister, that we do not take a vote on this issue until we have done proper consultation because we are now discussing the issue from a point of no knowledge. We are going to lose a very important opportunity because we have suspicions. We have more often than not taken the microphone to defend some of our ill-behaviour outside this House. That is not doing us any good in the eye of the public. For this House to be trusted in this process, we have to engage the country. Whatever it is that we produce, under the kind of atmosphere that we are in will not be trusted by Kenyans. If that is not dealt with, then what we are doing will be very difficult and will not be useful, or helpful, to this country.

Thank you, Mr. Deputy Speaker, Sir.

The Minister of State for Development of Northern Kenya and other Arid Lands (Mr. I.E. Mohamed): Mr. Deputy Speaker, Sir, from the outset, I would like to say that I support this Bill. I want to say very clearly that we all know where we came from. Kenyans are looking at us for leadership; they want us to show them direction. We want to break away from the past, but we have to start somewhere. I have heard many people say that our institutions are not competent, and we will

not get justice if we form a tribunal in the country. There are those who feel that if they tried here, people will "cook" evidence against them; therefore they feel that the Hague is better.

On the other side, there are those who feel that if we have the tribunal here, they will not get justice for their people who died. In my view, this is the time for Kenyans to come together and build our institutions. We are at a crossroad as a country after what happened early last year. We have serious unemployment and high levels of poverty. Ethnicity is at its peak, and our institutions have been proven to be weak. Instead of running away from taking responsibility, and passing it to other people, I would like to urge hon. Members to show leadership and do what is right by creating institutions and mechanisms that will sort out our problems, however big they might be.

Mr. Deputy Speaker, Sir, once you do not start believing in yourself, then there is no cure. I think we must believe in ourselves. If there is anything wrong along the way, Parliament is supreme. We can come back here with the same enthusiasm and change that. We must make the hard decisions and even if the options we are taking are not the best, we must take them. However, they must belong to us; they should not belong to anybody else.

Mr. Deputy Speaker, Sir, the Hague has been made as if it is the place where justice will be got. We know the story. How many people have been tried in the Hague? How long does it take to investigate somebody? I do not think this country can wait for justice from the Hague because I do not believe it has a solution for us. This is because we are still in this very delicate period when we want to heal and break away with the past. If we say we abdicate our responsibility to the Hague which will take another five years, will we survive the next elections? This is because they want to do a thorough job.

Mr. Deputy Speaker, Sir, I believe it is time that this Parliament showed a difference in politics. We must break away from the past and away from the politics of cynicism, where people are suspicious of each other either for ethnicity or for some reasons. We should put Kenya first. We should move away from petty witch-hunting that I have seen and go to politics of hope. Let us show our people that we can unite in this House and that whatever different opinions we have, we will put Kenya first.

With those few reasons, I would like to support this Bill and tell the people who actually think that the mechanisms that we are putting in the country, that this is ours. At least, we can change and continue to mould it to prove to the world and ourselves first and foremost, that we can take away Kenya from where it is. That is where we do not have to beg for maize to feed starving Kenyans. Also, that we do not have to be a Third World country any more and that leadership will only come from here for us to bite the bullet and create our own institutions.

Thank you.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this very critical matter of national interest.

Mr. Deputy Speaker, Sir, the very survival of this country as a nation or state depends actually on what we are going to do with this Bill. The truth and reality is that when you look at the public interpretation and view of who we have become, the public is having second doubts as to whether we should have this tribunal set up in Kenya or whether we are taking it out of the country.

Mr. Deputy Speaker, Sir, there are certain views and different opinions which exist and I seem to agree with hon. Kioni's view that there are certain issues which must be ironed out first before we can proceed with this document. The reason is very simple. The reason is very simple. If justice does not seem to be done at the end of the trials and whatever you are trying to do then the results will be as worse as if you had taken this to the Hague.

Mr. Deputy Speaker, Sir, according to what Mr. Elmi has said, we need a country which has self confidence. We need a country that will set up systems and decide its own destiny. The reality is that we have a problem of coming out very clearly as to what we will do to make sure that the victim

does not feel let down.

As much as I have said that, the suggestion that I would like to make is very simple. In order for our country to maintain its sovereignty and make sure that we have a dignified country which will take care of its weaker people, we must make sure that this tribunal will uphold equity in justice and fairness so that we do not have people in this country feeling that this is another sham arrangement where the people who are capable are the only ones who will walk away from justice and the people who are weaker because they are poorer are the ones who will not have been served well by this tribunal.

Mr. Deputy Speaker, Sir, finally, the truth and the reality is that we were elected in this House to be dignified, intelligible and people who will maintain dignity in making sure that Kenyans live together harmoniously and that they love their country and continue to respect one another. This tribunal must make sure that it achieves those goals.

Even though I have my misgivings I beg to support, Mr. Deputy Speaker, Sir.

Mr. Namwamba: Thank you, Mr. Deputy Speaker, Sir. I wish to make my contribution on this most important Bill. I make my contribution with a very heavy heart. I have had a sinking feeling since this whole process started from the day the Minister first made an attempt to move this Bill and from yesterday when debate on this Bill started.

I looked around the Chamber as I do now and noticed that unlike in the past when this House has been seized of a Bill of this magnitude the presence of hon. Members in this House is disappointing. It is indicative of an absence of political will that may, perhaps, have already sealed the fate of this Bill before we even debate it.

Mr. Deputy Speaker, Sir, previously we have had His Excellency the President and the Rt. Hon. Prime Minister sitting with us through debates on matters of this magnitude and even casting their votes to support this process. Therefore, my heart bleeds for this country because this process of establishing the tribunal, seeking an answer to the post election crisis and finally finding an answer to the culture of impunity does not seem to be a priority to this House.

Mr. Deputy Speaker, Sir, issues have been raised during previous debates on this matter about sovereignty and I want to disagree with hon. Members who have asserted here that we are not a sovereign republic; we are a sovereign republic.

If you are a Member of this august House and you claim that we have lost our sovereignty then even your presence in this House is a contradiction. You cannot purport to sit in this House to represent the sovereign will of the people of this country and at the same time argue that Kenya is not a sovereign State. We are a sovereign State.

Mr. Deputy Speaker: Mr. Namwamba, you still have about 27 minutes the next time the debate resumes on the same Bill.

ADJOURNMENT

Hon. Members, it is now time to interrupt the business of the House. The House stands adjourned until tomorrow, Thursday, 5th February, 2009 at 2.30 p.m.

The House rose at 6.30 p.m.