

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 10th February, 2009

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

LEVEL OF PUBLIC DEBT OWED BY GOVERNMENT

Mr. Langat: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Could the Minister indicate the current level of public debt owed by the Government of Kenya and provide a detailed breakdown, showing date of the loan, name of the lender, rate of interest, initial amount of the loan, current value of the loan and purpose of the loan?

(b) What measures is the Government taking to reduce the level of public debt?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to reply.

First of all, the information that the hon. Member has requested is publicly available in the Annual Debt Report, the Appropriations Account and the Quarterly Budget Report. But for the sake of the matter at hand today, let me brief the hon. Members as follows:-

(a) As at the end of December, 2008, the total public debt owed by the Government stood at Kshs972 billion or US\$12.2 billion or 40.5 per cent of the Gross Domestic Product (GDP). It is composed of:-

(i) Domestic debt of Kshs456 billion or US\$5.7 billion, representing 47 per cent of the total debt and 19 per cent of the GDP.

(ii) External debt of Kshs515 billion or US\$6.4 billion, representing 53 per cent of the total debt and 21.5 per cent of the GDP.

This total is comprised of the Central Government debt of Kshs408 billion and Kshs35 billion debt of public entities. Over the years, the Government has maintained a prudent debt management policy. That is why Kenya is not classified as a Highly Indebted Poor Country (HIPC) by the international community. Indeed, the Debt Sustainability Analysis (DSA) conducted by the World Bank and the IMF in August, 2008, and similar one carried out by Kenyan authorities in November, 2006 and in May, 2007, jointly with the World Bank and the IMF classified Kenya's debt as sustainable. Besides those ratings, Kenya's debt position is sustainable at B positive.

(b) To ensure that sustainability is maintained in the medium and long-term, the debt category that the Government has adopted is as follows:-

(i) The Government will continue to pursue a tight fiscal framework to ensure that the public debt remains within sustainable levels.

(ii) External multilateral and bilateral borrowing will be undertaken on constitutional term of minimum grant element of 35 per cent.

The Government will seek debt relief from external creditors on bilateral basis in the form of debt cancellation or debt for development swaps. The Government will continue to undertake measures to strengthen the maturity profile of domestic debts through issuance of longer dated instruments like bonds. Since the contingent liabilities pose a potential risk on the domestic debt sustainability, the Government will step up monitoring and management of all contingent liabilities.

Mr. Langat: Mr. Deputy Speaker, Sir, the Assistant Minister had not given me the written answer beforehand. Actually, I was under the impression that he would seek your indulgence to defer the Question. The Minister himself had informed me that he wanted to defer the Question, so that he could give me the written answer in advance.

However, I would like to refer the Assistant Minister to my Question because his answer is not anywhere close to what I have asked. I have asked for specifics and not lumped-together figures. So, I would like to seek the guidance of the Chair to defer the Question, so that I can get the written answer in advance and be able to ask specific questions.

Mr. Deputy Speaker: Hon. Assistant Minister, the specifics are not in the yellow domain!

Dr. Oburu: Mr. Deputy Speaker, Sir, the hon. Member wanted to get a detailed breakdown of all the debts. I have the specifics here in a voluminous document. I can table it before the House.

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

Mr. Deputy Speaker: Hon. Langat, would you want to go through the document? There are also other Members who have a stake in the Question!

Mr. Ogindo: Mr. Deputy Speaker, Sir, I would like to get clarification from the Assistant Minister. The Kenya debt portfolio today stands at 41 per cent of the GDP. In Tanzania, it is less than 1 per cent.

Mr. Deputy Speaker, Sir, in Uganda, it is 13 per cent. To what extent have the loans been applied to their intended purposes as required by Section 3 of the External Loans Act?

Dr. Oburu: Mr. Deputy Speaker, Sir, that question is based on the wrong premises. I would like the hon. Member to prove to me that an HIPC can be compared to Kenya, which does not benefit from the HIPC facilities that are given by the World Bank and other countries, can have a lower debt ratio to the GDP than Kenya.

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister did not get my question. To what extent has the borrowed money been applied to its intended purposes as required by Section 3 of the External Loans Act?

Dr. Oburu: Mr. Deputy Speaker, Sir, I have just given a detailed breakdown of where every loan has been applied. The hon. Member can have a look at the breakdown which I have just laid on the Table. However, if he wants to know the extent to which the loans have been applied, it is 100 per cent.

Mr. Imanyara: Mr. Deputy Speaker, Sir, out of concern about the level of impunity within the financial sector, this House passed the Fiscal Management Bill last year, so that we can deal with the issues of how public funds are spent and managed. Up to now, that Bill, although passed by this House, has not been assented to by the President.

Mr. Deputy Speaker, Sir, is the Assistant Minister satisfied that the level of indebtedness can be reigned on and brought down when the Government is not serious about signing the law that this House passed?

Dr. Oburu: Mr. Deputy Speaker, Sir, signing of Bills into laws is the prerogative of the President.

Mr. Deputy Speaker, Sir, I am not in a position to force the President to assent to a Bill that has been passed by this House. We are working within the laws which are available. When the

President signs that one, we shall definitely comply with it.

Mr. Langat: Mr. Deputy Speaker, Sir, since the Assistant Minister has tabled a very long list, I wish to seek your indulgence to defer the Question, so that I can study the list and be able to ask him further questions.

Mr. Deputy Speaker: Order! Mr. Langat, once you have asked a Question, you cannot ask the Chair to defer part of it! You will just have to ask the supplementary questions now under the circumstances. If, indeed, you had not received a written answer well in advance, which is the practice of the House, you should have insisted on that before the Assistant Minister started asking the supplementary questions.

You should have said that you did not have a written answer and the Chair would be in a position to tell the Assistant Minister to go back and furnish the Member with the written answer for him to ventilate it properly. But right now, we are past that. So, could you, please, ask your question?

Mr. Ogindo: On a point of order, Mr. Deputy Speaker, Sir. Given the seriousness of the issue, would I be in order to ask this House to set up a Select Committee to look into the public debt of this country with a view to reporting to this House what constitutes public debt and whether it is actually sustainable?

Mr. Deputy Speaker: Order! We have provisions in the Standing Orders to deal with such issues, but not during Question Time! You cannot set up a Parliamentary Select Committee during Question Time or as a consequence of a Question.

Mr. Langat: Mr. Deputy Speaker, Sir, the Assistant Minister says our public debt is Kshs900 billion. In a way, he is saying that our Budget is fully-funded by public debts. Our Budget is Kshs900 billion. Is he saying that we have borrowed everything to finance our Budget?

Dr. Oburu: Mr. Deputy Speaker, Sir, when we talk about debts, some of them have grace repayment periods of up to nine years. Some of them are repayable over a period of 30 years. These are debts. They have nothing to do with the funding our Budget. It is a small percentage of our national Budget that is actually funded by the external debt.

GOVERNMENT'S SLOW RESPONSE
TO NAKUMATT DOWNTOWN
FIRE DISASTER

Mr. Washiali: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Could the Minister explain the extremely slow response to the recent inferno at Nakumatt Downtown Supermarket in Nairobi?

(b) Could the Minister table a casualty list showing the deaths, injuries as well as the state of those in hospital?

(c) What urgent arrangements have been made to ensure compensation for the deaths and injuries?

(d) What measures has the Government since taken to enhance its level of preparedness for disasters in Nairobi and other towns in the country?

Mr. Deputy Speaker: Hon. Members, I understand that there is a request from the Minister that this Question be put on the Order Paper tomorrow afternoon.

I so direct that the Question appears on the Order Paper tomorrow.

(Question deferred)

SUPPLY OF FAMINE RELIEF TO
MURANG'A SOUTH DISTRICT

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

Considering that some parts of Murang'a South District are experiencing acute famine, what urgent steps is the Minister taking to supply famine relief food to the residents, particularly the integrated Internally Displaced Persons (IDPs)?

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

Like many parts of this country, Murang'a South District has been getting support from the Government through relief. It will continue to get relief support from the Government. As far as the current situation is concerned, there is a multi-sectoral team that normally goes round the country to assess the food situation in various parts of our country. This is going on. If this team has not yet reached Murang'a South District, it will be there any time. By the end of this month, we are set to get the report from them, so that we can know the exact status of the district.

As you very well know, the hunger situation was declared a national disaster by His Excellency the President. The Government is in the process of mobilizing all the resources, whether from the country itself or otherwise, to support Kenyans during this time of need.

As far as the integrated families in Murang'a are concerned, we have 500 integrated families. They continue to get support from the Relief Department.

Mr. J.I. Kamau: Thank you, Mr. Deputy Speaker, Sir. First of all, I want to thank the Assistant Minister for that answer. Unfortunately, he does not even concede that the district just received relief food last week. He says we got Kshs10 million worth of relief food. However, the fact on the ground is that we got 2,000 bags of maize.

Out of the 2,000 bags we received, only 30 bags were earmarked for the integrated IDPs in that area. This technically means that each family was getting about 4.5 kilogrammes of maize. As we prepare to take the perpetrators of the post-election violence to the Hague, because I believe that is where they belong, I want him to tell us whether the 4.5 kilogrammes of maize are enough for a family, considering that these people suffered because of problems that were created by greedy politicians who are now trading in maize?

Mr. Deputy Speaker: Order, hon. Member! It is Question Time!

Mr. J.I. Kamau: I have asked a question!

Mr. Deputy Speaker: Mr. Assistant Minister, proceed!

Mr. M.M. Ali: Thank you, Mr. Deputy Speaker, Sir. I think the hon. Member is mixing up issues. First of all, I want to set the record right. I have not stated that we have given Murang'a South District relief food worth Kshs10 million this month as alleged by the hon. Member. The 2,000 bags are for the January allocation. It was received on the 10th of January. The Kshs10 million the hon. Member is talking about covers a period between September 2008 to January this year. However, when you are talking about---

(Loud consultations)

Mr. Deputy Speaker, Sir, I wish the hon. Members could consult in low tones!

Mr. Deputy Speaker: Order, hon. Members! Please, consult in low tones!

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, the hon. Member is talking about 30 bags of maize out of the 2,000 bags of maize that he received. I would like to remind him that he is a member of his District Food Security Committee. He is supposed to be sitting in its meetings. He should also participate in the distribution of food within the district. Our mandate, as a Ministry, is to supply food to needy districts in the country. With regard to the distribution of food to the IDPs or any other group of people, it is the role of that committee to do so. The hon. Member sits in that committee. Whether

they give 30 bags of relief food to IDPs, it is their responsibility.

Mr. M. Kamau: Mr. Deputy Speaker, Sir, the area the Assistant Minister [**Mr. M. Kamau**] has talked about is adjacent to my constituency. The lower parts of Murang'a North and Murang'a South districts need the same kind of attention. Unfortunately, Murang'a North District has not had such a supply. Could he tell us when he will cross the river and get to Murang'a North District, particularly Gikindo Location, and provide the same amount of relief food.

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I did not come here prepared to answer a Question with regard to Murang'a North District since I do not have the data here with me. However, we, as a Ministry, provide relief food to all Kenyans regardless of the districts they come from as long as there is need. I have just said that there is a team that goes round and assesses need. Once that need is certified, we provide food to all Kenyans irrespective of where they come from. As far as Murang'a North District is concerned, I will answer him when I get the data.

Mr. Olago: Mr. Deputy Speaker, Sir, the policy of food distribution in the country does not appear to be there to the extent that food is being distributed very inappropriately. There are districts that get much more than others even when the rate of poverty is the same. Hon. Members have been reduced to literally begging the Minister for relief food. What policy does the Ministry have in the equitable distribution of food throughout the country?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, if my colleague, the hon. Member, was listening carefully, I just explained that twice; that every year, we have a multi-sectoral team that goes round the country to assess the food situation in every district. This team comprises of Government officials and other United Nations Agencies, including the World Food Programme.

Based on their assessment, we now look at the population according to their recommendations. We then provide relief food on the strength of their recommendations. The team is currently conducting the assessment of food situation in various parts of the country. By the end of this month, we expect a full report.

Mr. J.I. Kamau: Mr. Deputy Speaker, Sir, I am disappointed in the Assistant Minister. Nevertheless, the point I am raising is that the food being given is not enough. If I was to be given one grain to share with him, I do not know how we would share it! When will he give us enough food?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, I have just said that, in Murang'a South District, based on the figures that we got showing their need, we gave 2,000 bags. The hon. Member is belabouring the issue of the 30 bags they gave to the IDPs. I would like to challenge him to sit in the committee concerned and try to distribute that food equitably to all the needy people in his district! Otherwise, as far as we are concerned, the 2,000 bags we gave out in January are adequate for now. Whether that will be reviewed upwards or not, will depend on the findings of the committee currently assessing the food situation in various parts of the country.

Mr. J.I. Kamau: On a point of order, Mr. Deputy Speaker, Sir. The hon. Member is only talking about maize. We cannot eat maize alone. We also need beans and cooking oil. What plans does he have to give us those things?

Mr. Deputy Speaker: That is a different Question! It is a not a point of order! Mr. Assistant Minister, you are at liberty to give us an answer.

Mr. M.M. Ali: Could the hon. Member repeat that question?

Mr. J.I. Kamau: Mr. Deputy Speaker, Sir, the hon. Assistant Minister has only talked about providing maize. We all know that we cannot eat maize alone. We need beans and cooking oil. What plans does he have to provide us with cooking oil and beans?

Mr. M.M. Ali: Mr. Deputy Speaker, Sir, the hon. Member may not be in touch with the District Food Security Team. With regard to this particular Question concerning Murang'a South District, we have already given out 2,000 bags. We did not provide maize only. With the 2,000 bags of maize, we also supplied 300 bags of beans as well. So, to say that we do not give beans or cooking oil

is very misplaced.

However, since the need has increased, we have already written to the Treasury to increase the allocation. We are expecting a positive feedback. When we get the funds, we will increase the allocation of beans and cooking oil across the country. I want to urge hon. Members, who come from highland areas, in case rains begin, to ask their constituents to continue farming, so that we do not overly depend on relief food.

ORAL ANSWERS TO QUESTIONS

Question No.376

REVIVAL OF KISUMU COTTON MILLS

Mr. Chanzu asked the Minister for Industrialization:-

- (a) whether he is aware that the defunct Kisumu Cotton Mills (KICOMI) used to provide job opportunities and a source of livelihood to cotton farmers in Nyanza and Western provinces; and,
- (b) what he is doing to ensure that the factory and others in the region, which have since closed down, are re-opened.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that KICOMI, as any other manufacturing entity, used to provide job opportunities for Kenyans as well as a source of livelihoods for many cotton farmers both in Nyanza and Western provinces as well as people from other regions of the country.

(b) KICOMI continued to operate until 1991 and was eventually sold to a private company in 1993. I am also aware that the factory has not been operationalized by the new proprietors since its acquisition. Therefore, the new proprietors are the only ones who can make a decision on when to revive it. However, my Ministry welcomes any proposals from the proprietors on the issue of revival of KICOMI.

Hon. Members will recall that, during the Ninth Parliament, the House passed the Investments Act, which allows us to provide relief to investors in the nature of investment allowance when they invest. I would like the proprietors of this enterprise as well as others---

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. I am sorry to interrupt the Assistant Minister, but I think he has moved away from the written answer before the House. He is dealing with supplementary information. Is he in order?

Mr. Deputy Speaker: He is in order! He is free to respond to the Question in the manner he wants, be it through the written reply or through what he has in his mind. He is under no obligation to stick to the written answer. In as much as the content is concerned, yes, but regarding the way he does it, what to bring forward and what to take back, is up to him.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Deputy Speaker, Sir, in order for us to make it possible for investors such as the ones who bought KICOMI, as well as other textile-based companies, the company has, in the last three and a half years, injected Kshs935 million into the revival of cotton production. This funding includes Kshs150 million that the Government has set aside this financial year for the Cotton Development Authority (CDA) to fund its activities.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer to the Question, and for the initiatives being put in place. All the successive governments, from

Independence, have promised Kenyans job creation as campaign pledges. In 2002, the NARC Government promised to create 500,000 jobs per annum. The same thing has now happened with the Grand Coalition Government. What is the Ministry doing, in terms of giving incentives, to ensure that this private proprietor starts operating the factory?

Mr. Muriithi: Mr. Deputy Speaker, Sir, it is true that this Government has taken up job creation as a key issue. I have just told to the House that we have spent, in the last three and a half years, Kshs394 million for purposes of reviving the cotton sector. This effort has raised cotton lint production from 23,000 bales to 45,000 bales.

In so doing, we have created about 18,000 jobs. On specific incentives that I have alluded to in my main answer, the House did pass, during the Ninth Parliament, a law which allows us to provide investment allowance to the entrepreneurs who bought KICOMI. So, as they go about reviving it, so long as the investment they will make will be in the order of Kshs100 million or more, they get 100 per cent investment allowance, which basically means that they will get a start shelter.

Mr. Olago: Mr. Deputy Speaker, Sir, the collapse of KICOMI caused lots of livelihood and jobs, whose effect is being felt up to now. I have seen a copy of the written answer. What the Ministry is saying is that they cannot do anything about it now, because it was bought by a private company. I think that is running away from responsibility. It is the responsibility of the Government to guide investment. I wish to ask the Assistant Minister what plans the Ministry has to consult with the present owners of KICOMI to ensure that further employment is created, and that the company starts running. It is not enough to facilitate cotton growing. Where will you take the cotton when it matures, if there is no factory?

Mr. Muriithi: Mr. Deputy Speaker, Sir, let me be very clear. I am not saying that we, as Government, have nothing to do with the revival of KICOMI or, indeed, with the starting up of other industries of this nature. What I am saying is that our job, as Government, is to provide incentives. We also ensure that the value chain of cotton is such that the farmer who grows cotton is able to find a ginner, and the ginner is able to find a spinner and the spinner is able to find somebody who makes clothing out of it. So, what have we done?

My Ministry is right now spending Kshs50 million as part of the work to improve the value chain and ensure that the farmer gets good value for his crop and that, in fact, the farmer is able to sell to ginneries. I am sure that hon. Members will appreciate---

(Loud consultations)

Mr. Olago: On a point of order, Mr. Deputy Speaker, Sir. What the Assistant Minister is saying is very important, but the House is so noisy!

Mr. Deputy Speaker: Order! Order, hon. Members! The Assistant Minister is entitled to be heard!

Mr. Muriithi: Thank you, Mr. Deputy Speaker, Sir. I am most obliged.

I was saying that my Ministry is now spending Kshs50 million to improve the value chain of cotton. This work, together with what the Ministry of Agriculture has been doing - giving free cotton seeds, *et cetera* - has led to the revival of ginneries such as Kibos and Nyanza Ginneries, amongst others. Therefore, I want to assure the hon. Member and the House that we are talking to the entrepreneurs who bought KICOMI with a view to encouraging them to revive this very significant industry.

Mr. Chanzu: Mr. Deputy Speaker, Sir, the Assistant Minister says that the Ministry has set aside Kshs150 million for establishment of the CDA and its activities. When is the CDA likely to be in place and fully operational?

Mr. Muriithi: Mr. Deputy Speaker, Sir, the Kshs150 million is, in fact, provided in the

current financial year. The Board is in place, while the process of recruiting the Chief Executive Officer and other staff members for the day-to-day running of the CDA is ongoing. So, I believe that this entity will be fully operational within the current financial year.

Question No.509

NON-COMPLETION OF PRISON
OFFICERS' HOUSES BY BIC

Mr. Deputy Speaker: Hon. Members, Prof. Kamar is out of the country on parliamentary business. Therefore, her Question will appear on the Order Paper when she comes back.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): On a point of order, Mr. Deputy Speaker, Sir. My Assistant Minister was here last week, and she answered this Question.

Mr. Deputy Speaker, Sir, I gather the issue was lack of satisfaction, but this Question has been on the Order Paper for a very long time.

In view of the fact that a lot of work is going into this to make sure that this contractor is on the ground, would I be in order to suggest that the Question be dropped from the Order Paper, so that we can deal with a lot of other more important business?

Mr. Deputy Speaker: Order! Prof. Kamar is out of the country. The Question is on the Order Paper.

Clearly, I stand to be guided. Even if it was only inadequately answered last time, and it appears on the Order Paper today, given that she is out of the country on parliamentary business, the Chair can only direct that this Question re-appears on the Order Paper when she is around, so that we can proceed with it properly.

(Question deferred)

Next Question, Mr. Lekuton!

Question No.327

COUNTRY'S CRIME STATISTICS
FOR LAST FIVE YEARS

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

- (a) whether he could table the country's crime statistics rates for the last five years;
- (b) how our country's crime rate prevalence compares with those of the neighbouring countries; and,
- (c) what immediate measures he has instituted to ensure that Kenya remains appropriately secure and a safe investment destination in this region.

Mr. Deputy Speaker: Where is the Minister of State for Provincial Administration and Internal Security?

The hon. Leader of Government Business, could you step in for the Minister of State for Provincial Administration and Internal Security? He is not available to answer this Question.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, I gather that Minister Saitoti's office has been in communication with the Clerk's office and indicated that they were not ready to deal with the Question directed at the Office of the President

today, but they will be in a position to do so tomorrow.

Mr. Deputy Speaker: Indeed, yes, I understand that the Minister had said that all Questions be deferred to another day. This Question is going to appear on the Order Paper tomorrow!

(Question deferred)

Question No.611

FINANCIAL ALLOCATION FOR REPAIR
OF ENDAO BRIDGE

Mr. Mwaita asked the Minister for Roads to indicate how much money has been allocated for the repair of Endao Bridge in the 2008/2009 Financial Year and state when the repairs will commence.

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

My Ministry has allocated Kshs9 million to Endao Bridge this Financial Year, 2009/2010. The money will be used to construct a dyke to tame the river to its original course as a temporary measure. The money is already with the District Roads Engineer awaiting the procurement process.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Mwaita: Thank you, Mr. Deputy Speaker, Sir, for the answer from the Assistant Minister. However, he has said "a temporary measure". This bridge is actually the artery of Lake Baringo, which is a major tourist site, and it is a major road. This road also has made many Kenyans lose their lives. When the Assistant Minister says that they are going to take a temporary measure, can he confirm when they are going to come up with a permanent solution by redesigning the bridge or any other way they think suitable?

Dr. Machage: Indeed, Mr. Deputy Speaker, Sir, I take great cognisance that this is a very important road. I am in the process of re-looking into the design of the road and when finances are available, I will take it as a priority.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Mwaita, you can ask your last supplementary question!

Mr. Mwaita: Thank you, Mr. Deputy Speaker, Sir. The answer the Assistant Minister has given, that he will do that when funds are available, with Kshs9 million, can the Ministry redesign the road, particularly that section where the river meets that road? This is because the problem has been the designs, it is not anything else; they either have to do a drift or a better bridge. Can the Assistant Minister confirm what they are going to do?

Dr. Machage: Mr. Deputy Speaker, Sir, if the hon. Member had listened to me carefully, that is exactly what I intend to do, and I am serious about it.

Mr. Deputy Speaker: Next Question, hon. K. Kilonzo!

Question No.284

DELAYED CONSTRUCTION OF
MACHAKOS-KITUI ROAD

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

(a) whether the Minister is aware that Machakos-Kitui Road has been under construction for several years but has not been completed despite lapse of the contract period;

(b) whether he is further aware that most travellers from the district have since resorted to using alternative roads which are long and more costly; and,

(c) what action he is taking to ensure that the construction is completed.

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

(a) I am aware that Machakos-Kitui Road has been under construction but it is not yet complete.

(b) However, I am not aware that travellers from the district have resorted to long and costly alternative routes.

(c) The Machakos-Kitui Road, otherwise referred to as C97, rehabilitation project was packaged into two contracts, and these are as follows:-

Machakos Turn off-Masii, which was awarded to M/s H. Young (EA) Ltd at a contract sum of Kshs1.45 billion, which was later revised to Kshs1.3 billion. This project stalled in September, 2008, due to exhaustion of the contract sum. The process of procuring a new contractor to complete outstanding works is in progress now.

Mr. Deputy Speaker, Sir, on the Masii-Kitui section, work stalled in September, 2008. The slow pace at which the contractor was progressing made it necessary for the Ministry to issue a notice of termination on 21st October, 2008. However, the contractor obtained a court order for stay of execution and, therefore, the contract was not terminated. As a result, the contractor, M/s Crescent Construction Company, is still on site. The contract sum for this section was Kshs722 million and the amounts certified so far is Kshs209 million.

Thank you, Mr. Deputy Speaker, Sir.

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir. I want to thank the Assistant Minister for that answer. However, the Assistant Minister did say that the contractor went to court and that he is still on site, yet he is not doing anything. He has not moved, like you have correctly pointed out, from October, 2008, when you terminated the contract. He is not moving and he is in court. There is a stalemate yet the lives of Kenyans are being put at a risk because of the deplorable state of the road. What are you doing, Mr. Assistant Minister, to ensure that, while the court matter is going on, the resident engineers are able to do regular repairs so that the road can be motorable?

Dr. Machage: Mr. Deputy Speaker, Sir, this is actually a very unfortunate situation, especially so when the court ruled by giving a stay of execution of orders. It, therefore, means that the contractor takes full control of that road. But we are looking into it and studying the legalities that we can use to move in and help the citizens. But I am equally concerned.

Mr. Chanzu: Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister why they cannot put into place the contractual provisions which are in the contract in order to wind these kinds of projects rather than saying that you are looking into it, because the contract provisions are there. Are you going to enforce the contract regulations which are outlined in the contract?

Dr. Machage: Mr. Deputy Speaker, Sir, indeed, we did look at the contractual agreement and, hence the termination of this contract, but they went to court and an order of stay of execution was held. So, really, I am tied!

Mr. Deputy Speaker: Ask your last supplementary question, hon. K. Kilonzo!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, from the answer we are getting from the Assistant Minister, it is clear that the Ministry is in a catch-22 situation, given that they are not able to move yet the residents of Ukambani area, namely Kitui and Machakos Districts are unable to move! Would I be in order to ask for the deferment of this Question until such a time when the Assistant Minister is able to come and give us a way forward, on which we are going to improve this road? The answer he has given us is very unsatisfactory.

Dr. Machage: (Inaudible)

(Laughter)

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

Mr. Deputy Speaker: Proceed, what is your point of order, Mr. K. Kilonzo?

Mr. K. Kilonzo: But, Mr. Deputy Speaker, Sir, I have just appealed to the Chair whether I would be in order to ask for the deferment of this Question, given that the Assistant Minister has explained that the Ministry's hands are tied, yet the people who use this road are exposed to danger given that the road is in a situation where people cannot travel. Would I be in order to ask for a deferment?

Mr. Deputy Speaker: Mr. Assistant Minister, is it true that you cannot do anything about the road?

Dr. Machage: Mr. Deputy Speaker, Sir, I have specifically told the hon. Member that we are looking at the legalities of how to clear the court situation and alleviate the situation for the benefit of residents of that area.

I have given this answer to the best of my ability on the situation as it is on the ground. I think I have satisfied myself and the hon. Member that considering the situation as it is, I do not think there is any need of deferring this Question.

Question No.517

DISBURSEMENT OF LATF MONEY
TO PROJECTS IN MIGORI

Mr. Pesa asked the Deputy Prime Minister and Minister for Local Government:-

- (a) how much money has been remitted to Migori County Council from the Local Authorities Transfer Fund (LATF) since the Fund's inception;
- (b) which projects have benefited from LATF in Migori Constituency and how much was spent on each project; and,
- (c) what action he is taking to ensure that the local authorities control and disburse the funds directly to community projects.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Since the inception of LATF, Migori County Council has received Kshs238,213,217.

(b) The following projects in Migori Constituency have benefitted from the LATF. They are:-

- | | |
|---|-------------|
| 1. Nyaduong Secondary School, Kshs50,000 | |
| 2. Osongo Dispensary, Kshs338,000 | |
| 3. Kowiti Primary School, Kshs420,000 | |
| 4. Wasio Chief's Camp, Kshs40,000 | |
| 5. Wasio Secondary School, Kshs150,000 | |
| 6. Wasio Midoti Road Opening, Kshs64,980 | |
| 7. Wasio Midoti Culverting and murraming, | Kshs600,000 |
| 8. Got Kochola Primary School, | Kshs150,000 |
| 9. Sagegi, Kshs50,000 | |
| 10. Rabuor Dispensary, Kshs350,000 | |
| 11. Ogwedhi Health Centre, Kshs250,000 | |
| 12. Ogwedhi Kisindi Road, Kshs800,000 | |
| 13. Rabuor Taya Primary School, | Kshs150,000 |
| 14. Kanyandege Water Spring, Kshs200,000 | |
| 15. Radenya Primary School, Kshs400,000 | |
| 16. Gogo Road, Kshs3,000,000 | |

17. Osogo Sibuoche Health Centre,	Kshs40,000
18. Anjogo Health Centre, Kshs200,000	
19. Magina Primary School, Kshs200,000	
20. Vyala Primary School, Kshs200,000	
21. Kawata-Magina Road, Kshs2,100,000	
22. Saro Health Centre, Kshs50,000	
23. Nyango Secondary School, Kshs35,000	
24. Sagero Secondary School, Kshs110,000	
25. St. Peters Abwao Secondary School, Kshs70,000	

Mr. Ruteere: On a point of order, Mr. Deputy Speaker, Sir. It seems the list the Assistant Minister is reading out is too long. Could he table it so that it can be studied later?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Speaker, Sir, there are only seven more names. They are:-

26. Hore Primary School, Kshs80,000
27. Magongo Ribe Primary School, Kshs20,000
28. Magongo Ribe Secondary School, Kshs440,000
29. Michienda Borehole, Kshs150,000
30. Ore Primary School, Kshs150,000
31. Got Kwer Health Centre, Kshs40,000
32. Masara Secondary School, Kshs800,000
33. Nyakore Primary School, Kshs150,000

Total **Kshs12,192,980**

(b) My Ministry issued Circular No.5 of 2008, detailing the role of local authorities in control and disbursement of LATF money. Local authorities have also been provided with the Local Authorities Service Delivery Action Plan (LASDAP) guidelines which, among other things, provide that 65 per cent of service delivery funds should be directed to capital projects. Such projects are mostly community projects. All local authorities have been advised to adhere strictly to the requirements of the LATF Act, No.8 of 1998.

Mr. Pesa: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that answer. I want to appreciate his answers to parts "a" and "b" of the Question. But I would like to ask him to justify why, out of Kshs238 million, only Kshs12 million has gone to Migori Constituency, while in Migori County Council we have three constituencies? I expected that he would have given us a third of the money that has gone to Migori County Council.

Mr. Githae: Mr. Deputy Speaker, Sir, the Ministry allocates that money to the county council; after that it is up to the local authority. It is now up to the county council to come up with their own method of dividing the money. We are aware that some county councils that allocated the funds equally to the wards but we have said that, that is wrong. It should be allocated according to how needy the ward is, and according to the problems that a ward has. So, the problem is with the county council. Again, we have seen that where the councillors in a certain ward are strong and vocal, they get more than other wards. So, the problem is with the local authority and not the Ministry.

Mr. Midiwo: Mr. Deputy Speaker, Sir, what measures does the Ministry have in place to make sure that reports like the one he is tabling are genuine and not made up? I have had an occasion to see a return from Siaya County Council going back to the Ministry; some roads which we had done using the Kenya Roads Board (KRB) and the Constituencies Development Fund (CDF) money were included in that report. This is my seventh year in Parliament and I have never seen a single thing done with LATF money in my constituency. What measures is the Ministry putting in place--- Even if it means hon. Members sitting on those council boards, so that we can ensure that there is proper allocation, just the way councillors sit on CDF committees, that should be one. The councillors are helpless and the chief officers are "eating" all this money.

Mr. Githae: Mr. Deputy Speaker, Sir, unless the contrary is proved, we are saying that the

information given to us is true. The amount of money allocated to a certain local authority is published in the media, so as to raise the awareness of the people and the hon. Member.

My advice would be that when hon. Members suspect that the LATF money is not being properly utilised in their constituencies, please, come to us and we will give you a list of all the projects that have supposedly been financed. Then you can go to the ground and find out whether they actually exist. It would be difficult for us, as a Ministry, to confirm whether the figures given to us are correct, but we try as much as possible. We send out inspectors but they cannot go to all the local authorities. I would like to seek the assistance of hon. Members. Please, interrogate the projects that are being financed under LATF.

Lastly, we are also encouraging hon. Members to, please, attend, for example the LASDAP meetings, in their areas. If they attended county councils meetings, they would not be thrown out. They would assist you as *ex-officios*.

Mr. Abdirahman: Mr. Deputy Speaker, Sir, I do not think the Assistant Minister has adequately addressed the question of the management of funds in councils. We are not querying how much is spent on projects. The question is on the management aspect. The chief officers unilaterally spend much of that money even on payment of debts. Could the Assistant Minister explain to us, in terms of governance structures, how that money should be managed, according to their policy? How many people constitute the membership of committees, in terms of the management of those funds, besides the chief officers and councillors? That is the question!

Mr. Githae: Mr. Deputy Speaker, Sir, there are adequate guidelines on how that money should be used. First, there is supposed to be a meeting of the local residents to identify the projects that should be funded by the LATF. That is the first thing that should happen! Then the minutes of such meeting should be taken to the local authority, where it would look at all the identified projects and allocate funds according to the wards or projects.

Mr. Abdirahman: On a point of order, Mr. Deputy Speaker, Sir. I did not ask the Assistant Minister to explain the bit that relates to Local Authorities Service Delivery Action Plan (LASDAP) only. I would also want him to enumerate how they manage the LASDAP funds in totality.

Mr. Githae: Mr. Deputy Speaker, Sir, LATF funds are managed in totality. That is exactly what I am trying to say. You cannot manage some of it and leave out the rest. Everything is managed. But this question cuts on both sides. Even the councillors accuse us, Members of Parliament, that we do not manage the Constituencies Development Fund (CDF) well. The most important thing is that the projects are supposed to be identified at the grassroots. So, the community knows the projects that have been financed. I have even gone round the country and seen that there are some local authorities that have put up boards indicating the projects that have been financed by the LATF. This is a very important Fund and a big proportion of the money must be spent on capital projects. We have, therefore, restricted payment of salaries and debts to less than 45 per cent of the money.

Again, I am seeking the assistance of Members of Parliament. Please, encourage projects in your areas. A lot of money is being sent to the local authorities. The town and county clerks are supposed to work only on the resolutions of the councils and not to unilaterally decide which projects to be undertaken, because it must be minuted. This is where now the councillors come in. The chief executive of the local authorities is supposed to implement what the councils have resolved.

Mr. Deputy Speaker: Last question, Mr. Pesa!

Mr. Pesa: Mr. Deputy Speaker, Sir, I think what is most important here is that the Ministry should assure this House that they have a machinery for monitoring and ascertaining that the guidelines that they are talking about are followed by both the chief officers and the councillors.

Mr. Githae: So assured, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Question, hon. Kaino!

*Question No.316*UNDER-UTILIZATION OF POTATO
RESEARCH FACILITY IN MOLO

Mr. Kaino asked the Minister for Agriculture:-

(a) whether he is aware that the potato research facility in Molo is doing very little for potato farmers in the country; and,

(b) considering the importance of this crop in this country, what steps he is taking to ensure its quality is improved, and storage facilities are established.

Mr. Deputy Speaker: Is the Minister for Agriculture not here?

Leader of Government Business!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, the Ministry of Agriculture had indicated that the hon. Mbiuki was ready to answer this Question. Seemingly, he is not in the House.

Could you, therefore, perhaps reschedule this Question for tomorrow?

Mr. Deputy Speaker: The Question is deferred to tomorrow afternoon.

(Question deferred)

*Question No.594*SUPPLY OF ELECTRICITY TO
MAVINDINI HEALTH CENTRE

Mr. Kiilu asked the Minister for Energy what steps he has taken to ensure that Mavindini Health Centre is provided with electricity.

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

Mavindini Health Centre is not in the list of priority projects to be funded this financial year. However, we have sent it for survey so that we can know the costing. It will be considered in the next Financial Year, 2009/2010, as the hon. Member had given priority projects citing some of them as security reasons. We did consider those projects.

Mr. Kiilu: Mr. Deputy Speaker, Sir, I want to appreciate the answer given by the Assistant Minister.

(Loud consultations)

Mr. Deputy Speaker: Order! The Member has to be heard. Consult in very low tones. Proceed, hon. Kiilu!

Mr. Kiilu: Mr. Deputy Speaker, Sir, Mavindini Health Centre serves two divisions. It is the only referral facility in the southern part of Makueni Constituency, for mothers seeking maternity and delivery services. Today, mothers who are referred there for delivery, particularly at night, deliver using hurricane lamps.

Could the Assistant Minister institute an alternative source of energy or power for that facility?

Mr. Keter: Mr. Deputy Speaker, Sir, I concur with the sentiments of the hon. Member. But as I had said, we will not give alternative power to the facility. However, we have sent the project for costing so that we can know the estimates. It will be considered in the next financial year. Meanwhile, there is no alternative.

Mr. Deputy Speaker: Last question, Mr. Kiilu!

Mr. Kiilu: Mr. Deputy Speaker, Sir, I do not think the Assistant Minister is serious. Considering that mothers are delivering using hurricane lamps, is he satisfied that they are being professionally handled by the officers on the ground?

Mr. Keter: Mr. Deputy Speaker, Sir, as I said, I concur with the sentiments by the hon. Member. However, he had cited security reasons for prioritising the project which he proposed. But I want to assure him that we will do the needful as soon as we get funds. Since we do not have funds at the moment, I do not want to commit myself regarding a project which is not possible. When I made a commitment last week on Emali/Jua Kali, I want to assure him that a transformer will be installed there as promised. On that note, I want him to bear with me. We will consider this project in terms of priority in the next financial year.

Mr. Deputy Speaker: Next Question, by Mr. Nyamai!

Question No.625

UPGRADING OF KANYANGI/KAUWI
SUB-DISTRICT HOSPITALS

Mr. Nyamai asked the Minister for Medical Services what steps the Ministry is taking to upgrade Kanyangi and Kauwi Sub-District hospitals to the standards of district hospitals and provide an ambulance for each of them.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Deputy Speaker, Sir, I beg to reply.

Kanyangi Dispensary and Kauwi Health Centre were gazetted as Sub-district hospitals in August 2008. This was meant to be an initial step towards upgrading the infrastructure in the two facilities to match their gazetted status. Of the two facilities, Kauwi already has much of the infrastructure required in a sub-district hospital. It requires a theatre, expansion of wards, an ambulance and deployment of more staff to operate as a fully-fledged sub-district hospital. The Ministry plans to progressively provide the missing infrastructure and additional staff to meet required standards within the next three years.

In comparison, the infrastructure at Kanyangi is appropriate for a dispensary and it is, thus, operating at that level. Granted the large resource outlay necessary to improve infrastructure, the Ministry views this as a long-term investment. However, the facility already has access to ambulance services shared with Yatta Health Centre. Besides factoring the upgrading of the two facilities in the development budget for successive years, the Ministry will also plan to pursue possibilities of support from development partners to fast-track the necessary improvements.

Mr. Nyamai: Mr. Deputy Speaker, Sir, I thank the Minister for the answer he has given, particularly the commitment he has given on Kauwi. However, Kanyangi is 77 kilometres from Kitui Town and of late almost every week, we lose one person because of snake bites since there is no vehicle to take these people to hospital. The ambulance which was at Yatta Health Centre was taken by Kitui District Hospital because they do not have ambulances. What is the Minister going to do in Kanyangi to help the people at least to prevent loss of lives as we have experienced in the past?

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I think the concern by the hon. Member is genuine. I understand the difficulty of sharing an ambulance with Yatta Health Centre. We will consider possibilities of providing the hon. Member with an ambulance this coming budget so that he can be sure of servicing his patients when need arises. However, this may necessitate upgrading the dispensary to health centre status so that it can qualify for an ambulance. Ambulances are not usually allocated to dispensaries. I think what we need to consider is the possibility of upgrading the

dispensary to a health centre so that it can have an ambulance. I will make sure that we send our officials there to write an appropriate report to that effect.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, not far away, we have Yatta Health Centre in Yatta Constituency. Although there are doctors, there is no operating theatre. What is the Ministry doing to ensure that district hospitals have theatres and other necessary facilities?

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, the hon. Member is right. As I have said before in this House, when these health facilities are categorised at certain levels, they should all have requisite infrastructure, services and human resources. For example, at the moment, Kauwi Sub-District Hospital has no doctor.

The most senior person there is a registered clinical officer. Clinical officers do good work but where you have a theatre where somebody needs an operation, it is very important to have a doctor. We have been doing a complete analysis of our health facilities to find out the gaps that exist in every facility. We are in the process of filling these gaps. For example, although we have theatres in various sub-district hospitals, we do not have anaesthetics - people who can help surgeons when they are doing their operations. It is in that regard that during my trip to Cuba recently, I negotiated with the Cuban Government to train for us some anaesthetics to come and service our medical facilities. I will discuss with Mr. C. Kilonzo further to see what we can do.

Mr. Deputy Speaker: Last question, Mr. Nyamai!

Mr. Nyamai: Mr. Deputy Speaker, Sir, I would like to thank the Minister for the commitment he has given. As I mentioned, Kitui District Hospital, itself, does not have an ambulance. They are currently using the ambulance which was meant for Yatta Health Centre. They require about Kshs360,000 to repair the ambulance. Could the Ministry consider giving them that money so that they repair their ambulance and release the one meant for Yatta Health Centre?

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I would like to ask the hon. Member to put that in writing to my Permanent Secretary, copy it to me and I will follow it up.

Mr. Deputy Speaker: Hon. Members, on the next Question No.637, we have a communication from the Office of the Deputy Prime Minister and Ministry of Finance seeking the indulgence of the Chair to have this Question deferred to tomorrow afternoon. I think the Questioner is agreeable to that.

Mr. Nguyai, are you agreeable to that?

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

Mr. Deputy Speaker: Indeed, the Question is deferred and I direct that it appears on the Order Paper tomorrow afternoon!

Question No.637

GOVERNMENT POSITION ON EMERGENCE
OF PRIVATE PENSION SCHEMES

(Question deferred)

Question No.639

INVENTORY OF MINERALS
FOUND IN KENYA

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

(a) whether he could provide information on the minerals found in Kenya, indicating

their respective viability; and,

(b) what steps he has taken to ensure that the minerals are fully exploited for the economic benefit of the country.

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

(a) A wide variety of minerals are known to occur in Kenya. Some of these minerals are of considerable economic importance. Others are of potential value while many are of little or no use at present.

The following minerals occur in quantities which are economically viable and have been mined:-

- | | |
|-----------------------------------|---------------------------------|
| (i) Trona (Soda Ash) - Kajiado | |
| (ii) Fluorspar - Keiyo | |
| (iii) Diatomite - Naivasha. | |
| (iv) Limestone - Machakos, | Kajiado, Kilifi, West Pokot and |
| Samburu districts. | |
| (v) Gypsum - Kajiado, Turkana, | Tana River and Garissa. |
| (vi) Natural Carbon - Kiambu | and Koibatek districts. |
| (vii) Gold - Western, Rift Valley | and Nyanza provinces. |
| (viii) Gemstones - Taita, Kwale, | Msambweni, Isiolo, Mwingi, |
| West Pokot, Kitui, Samburu and | Baringo districts. |
| (ix) Silica sands - Kwale and | Kilifi districts. |
| (x) Iron ore - Tharaka, Mutomo, | Kaloleni and Taita districts. |
| (xi) Mazeras sandstones - Kwale | District. |

Mr. Deputy Speaker, Sir, other economically viable minerals that are exploited in smaller quantities and are widely dispersed in their occurrences are the following; barytes, kaoline, lead, vermiculite, garnets and kyanite. Titanium bearing heavy sands at Coast Province have been found to be economically viable and will be mined in large quantities once mining starts. The expected annual production will be 330,000 metric tonnes of Ilminite, 75,000 metric tonnes of rutile and 37,000 metric tonnes of zircon. However, it should be noted that most, if not all, of mineral occurrences in the country have not been quantified due to budgetary constraints in the Ministry.

(b) My Ministry, through the support of the Commonwealth Secretariat has undertaken formulation of the Minerals and Mining Policy which is awaiting publication and prepared the new Mineral and Mining Bill which is at the Attorney-General's Chamber for finalisation. The document received Cabinet approval in 2007. Once enacted, the legislation will provide for modern mining law, an enabling environment for investors based on modern regulatory arrangement and competitive terms, physical incentives, streamlined licensing system, integration of sound environmental protection in mineral resources development, inter-generation equity and orderly dealings in mineral trade.

My Ministry will intensify geological surveys and mineral explorations to update its minerals database thus availing up-to-date mineral information to investors. The Government in partnership with the private sector, Kenya Chamber of Mines, is developing programmes to promote investment opportunities in the country's mineral subsector both locally and internationally. My Ministry has seen increased interest by exploration companies through participation in major mining investment conferences such as Investing in African Mining, Cape Town, South Africa; Mines and Money, London, Africa Down-Under and Australia.

(c) I will carry out further decentralization of geological and mine services to more districts where intense mining activities are taking place or where there are known potential mineralization.

(d). The Ministry, through the Department of Mines and Geology, is carrying out sensitization workshops on prevailing mining regulations, best mining practices to small-scale miners and also

encouraging communities to be more accommodative to investors.

Mr. Bahari: Mr. Deputy Speaker, Sir, this Question is a wake up call for this Ministry. This country has a lot of resources and this Ministry has specifically been mandated to find ways and means of exploiting mineral resources. The Assistant Minister has just given us a list of the minerals and the conferences they have attended. Kenyans are dying of hunger because some Ministries, like this one, are not doing what they are supposed to do. Could the Assistant Minister, other than the issue of policy documents, undertake to immediately organise an investor conference on minerals so that the investors can take keen interest and move on to exploit them for the benefit of Kenyans?

Mr. Kajembe: Mr. Deputy Speaker, Sir, that is a very good suggestion. However, I would like to tell this House that the Ministry is doing its best to ensure that what is proposed by the hon. Member is done.

I want to assure this House that we are not in the position to do what he has suggested because of financial constraints. If this Parliament, today, approves our budget, we will have the capacity and ability to do whatever the hon. Member has said.

Mr. Yakub: Mr. Deputy Speaker, Sir, what sort of incentives does the Ministry have for the local investors with regard to this very important sector of our economy?

Mr. Kajembe: Mr. Deputy Speaker, Sir, yes, we are visiting districts where mining is taking place. However, our policy as a Ministry is to encourage the local people. Our Ministry is ready. We have been giving assistance to small miners. As I said earlier on, if we had adequate funds, we can even give incentives to those who have now started mining activities. It is true that big sharks have found their way and are now engaged in mining activities in these areas. We will bring legislation that will control the mining industry.

Dr. Nuh: Mr. Deputy Speaker, Sir, apart from supporting the mining activities that take place in this country, the Ministry has an undertaking that it has to conserve the environment. It will not be fair that other economic activities that are viable and helpful to the people down there are mismanaged on the pretext of companies being allowed to mine minerals in this country. In my constituency, the livelihood of the people is pastoralism. There is also extensive mining. In the next ten years, most people will not have a place to graze their livestock. Even after writing several letters to the Ministry that they visit the place and ensure that safety environment measures are in place, the Ministry has declined to take any action on that. Can the Assistant Minister assure this House that other economic activities are not going to be disadvantaged just because a few companies are going to be supported to mine minerals and exploit the people down there?

Mr. Kajembe: Mr. Deputy Speaker, Sir, I want to assure this House that we do not exploit people. If anybody comes to the Ministry to seek a licence to start mining activities, we have the experts and one will be told what to do. If such a company qualifies, the Ministry will always give a licence. I know what the hon. Member is trying to talk about. He has written to my Ministry asking us to visit his area. Some mining activities are going on in his constituency, but I want to assure him that we take the issues he has raised seriously. I will visit his constituency with my experts. We are taking care of environmental issues.

Dr. Nuh: On point of order, Mr. Deputy Speaker, Sir. Could the Assistant Ministry tell the House when he intends to visit my constituency to see for himself the impact of the environmental degradation on the people of Bura Constituency?

Mr. Kajembe: Mr. Deputy Speaker, Sir, I am as ready as now. I want to ask the hon. Member to come my office so that we can make some arrangement for that visit.

Mr. Bahari: Mr. Deputy Speaker, Sir, in some instances, special prospecting licences have been issued to some companies and they have gone ahead to mine through the backdoor in large quantities. Could the Assistant Minister undertake to review those special prospecting licences and ensure that they do not breach the law by engaging in excessive mining?

Mr. Kajembe: Mr. Deputy Speaker, Sir, not everybody who does mining does it from the backdoor. That is a very nominal percentage. However, I would like to assure this House that we are talking with some investors from abroad. We are also talking to our own people who have knowledge in mining. If this Parliament approves our budget, we are going to do wonders.

PERSONAL STATEMENT

LETTERS TO NCPB TO ALLOCATE MAIZE

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I rise on a point of order under Standing Order No.69 regarding a matter of personal character on the maize scandal.

Mr. Deputy Speaker, Sir, last night, the Kenya Television Network (KTN) carried a story on a list of Members of Parliament who have written letters to the Managing Director of the National Cereals and Produce Board (NCPB), Dr. Miso, to give their constituents allocations of maize. Yes, indeed, I wrote those letters. I wrote those letters as a Member of Parliament representing a constituency. That is because they came and asked me whether I could support their application for some allocation. They put in a lot of pressure. It is easy to understand that, in this country, where there are no systems or criteria for getting certain allocations, Members of Parliament are, sometimes, under very difficult circumstances.

Mr. Deputy Speaker, Sir, I want to also say---

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

Mr. Deputy Speaker: Dr. Mwiria is on a point of order under Standing Order No.69. I hope everybody is carrying the Standing Orders. Please read them. Then you will not have to interrupt.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I would like to say that, having written those letters, none of the people I wrote those letters for got any allocation. I regret the matter, given the circumstances which we have found ourselves in as a country, and given the scandals that have been associated with the maize crisis in the country.

I regret especially because there are Kenyans who are dying from hunger because there are people who have taken advantage. Those are especially the people who are in positions of authority. They took advantage of a situation and corruptly gained from those maize allocations. I regret because I realise that when we write such kind of letters, sometimes, they can be perceived to be misusing our positions in Government to create and use undue influence to get favours that we should not get, especially when those favours tend to disadvantage so many Kenyans.

Mr. Deputy Speaker, Sir, I will submit myself to investigations. In fact, I have called the Kenya Anti-Corruption Commission (KACC) and said: "I would like to present myself for investigations and if I am found guilty, I would like the law to deal with me, but not in the way they have dealt with a lot of people who have been investigated by commissions."

In this regard, I would also like to say that we hope full investigations will be conducted so that side-shows like this one are not used to cover up the real thieves of the maize scandal. On the same note, I would like to say that let us also investigate all the other big scandals---

Mr. Deputy Speaker: Order! Personal Statements under Standing Order No.69--- I think you have passed your message.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): I would just like conclude, Mr. Deputy Speaker, Sir, but not with that particular statement. I just want to say that it reminds me of Keihama and the fishermen that use a special Ghanian net. That Ghanian

net was only able to catch the small fish, but not the big ones.

Thank you, Mr. Deputy Speaker, Sir.

POINTS OF ORDER

TAKING PARLIAMENTARY DEBATE OUTSIDE THE HOUSE

Mr. Thuo: Mr. Deputy Speaker, Sir, I rise on a point order to bring to your attention the fact that, in breach and contrary to our traditions and practices, as well as rulings of the Speaker, we have used the last weekend to take parliamentary debate out of this House.

Mr. Deputy Speaker, Sir, while we debated the issue of the tribunal, very serious allegations have been made about this House by one or two Members including, but not limited to the fact that, Members are being paid to support or not to support a Bill. Such statements, whether made in jest or seriously, have the impact of demeaning the status and dignity of this House. That is because they support that Members of Parliaments can be bought one way or the other.

Mr. Deputy Speaker, Sir, those are very serious allegations and I will seek your ruling and guidance on this so that, in future, we are also seen to treat our business here with the seriousness it deserves.

Mr. Deputy Speaker: Order, hon. Members! Indeed, the tradition of this House is that all Members of this House are supposed to protect the dignity of the House. When hon. Members go out there and engage in loose talk and politics demeaning this institution--- The institution, itself, is the supreme institution because of the collective representation which is here - the 222 Members of Parliament.

So, by and large, the tradition of this House is that we respect the dignity of the House. Let us not talk loosely outside because this is a supreme institution. As it is now, Kenyans have a full disclosure. We are always on the television screens. If you look at the traditions of other countries, you will see that Members of Parliament respect one another. I think it would be unfair and bad both inside and outside this House for Members to impute improper motives on other Members of Parliament, individually or collectively. The way forward is to deal with the problems in the House. Hon. Members, it is my plea that we should protect the dignity and honour of this House.

Thank you.

FAILURE BY FUEL COMPANIES TO REMIT FEES

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Ministry of Energy.

I would like the Minister to clarify some issues concerning the oil industry. My concern regards some two oil companies that owe a lot of money to the Government through certain parastatals. Those two particular oil companies owe the Kenya Petroleum Refineries Limited close to Kshs500,000,000 in processing fees. The same two companies owe Kenya Pipeline Company fees on storage and transportation amounting to almost Kshs1 billion. The same two companies owe Kenya Ports Authority shore-handling fees close to Kshs500,000,000. In total, they owe slightly over Kshs1.9 billion as at 31st December, 2008.

Mr. Deputy Speaker, Sir, of interest is that the same two companies have been awarded tenders to import crude oil for the months of January and March this year. Further, the two companies despite, refusing to pay the fees----

An hon. Member: Which are those companies?

Mr. C. Kilonzo: Relax! Mr. Deputy Speaker, Sir, the two companies, despite refusing to pay the fees, are charging consumer pump prices that are based on the increased processing fees being charged by Kenya Petroleum Refineries Limited despite the fact that, they have refused to remit a cent to the same companies. What I wish the Minister to clarify is:-

(a) Why has the Government continued awarding contracts to the same two companies for importation of crude oil, knowing very well that the two companies have refused to pay any fees for the services rendered?

(b) Why has the Government continued awarding contracts to the same two companies that look for excuses for not importing sufficient crude oil to meet national requirement and, therefore, the current fuel shortages that we have.

(c) I want the Minister to confirm whether there are other companies that owe monies and have refused to pay.

(d) What action is the Minister taking against those companies that have refused to remit fees to the three firms? That is Kenya Ports Authority, Kenya Pipeline Company and Kenya Petroleum Refineries Limited.

Thank you.

An hon. Member: Which companies!

Mr. Deputy Speaker: Order, Mr. C. Kilonzo! You have to be specific!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, the companies are Kenol and Kobil.

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

Mr. Deputy Speaker: Order! Is it on the same issue?

Mr. K. Kilonzo: No, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, Mr. K. Kilonzo! Let the Assistant Minister give an undertaking as to when the Ministerial Statement is going to be available. Mr. Assistant Minister, when will the Ministerial Statement on that matter be ready?

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Deputy Speaker, Sir, I undertake to issue the Ministerial Statement on Wednesday next week.

Mr. Deputy Speaker: That is fair enough.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, that information is even within the Ministry. So, tomorrow will suffice. In any case, the word is that we are adjourning this week.

Mr. Deputy Speaker: You are anticipating debate in the House, Mr. C. Kilonzo.

Mr. Mwathi has a point of order; so, Mr. Minister you can take note of it.

ARREST AND DISAPPEARANCE OF THREE FAMILY MEMBERS IN LIMURU

Mr. Mwathi: On a point of order, Mr. Deputy Speaker, Sir. I rise to request a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security. That is with regard to the systematic and well-organised extra-judicial killings of young people in this Republic. In particular, it should be noted that there were demonstrations in Limuru Constituency, where the main highway was blocked by people who were protesting the arrest of three family members.

Any attempts to go to police stations have not borne any fruit; even attempts of this hon. Member from that area have not succeeded. I have tried it but in vain. This morning I have been trying to meet the Minister, but I have not been able to.

The facts of the matter are that a young man of about 31 years was arrested on 26th December, 2008. The family members have been trying to find out his whereabouts, but they have not

been successful.

On 31st January, 2009, his father, who is aged 75 years, and the wife of that young man, were arrested in Ruiru Police Station when they went to find out the whereabouts of the young man. The mother of a small child, who is now two years old, is also missing. Also missing is the father of the young man who was arrested in December. He is aged 75 years and is on medication.

Mr. Deputy Speaker, Sir, in the circumstances, I would like the Minister of State for Provincial Administration and Internal Security, because we have not seen any prosecution for extra-judicial killings, to give us the circumstances surrounding the arrests of Mr. George Kariuki Njenga on 26th December, 2008 and further tell us his whereabouts. I also request the Minister, in that Ministerial Statement, to include the circumstances surrounding the arrest of that old man and the wife of that young man, who were arrested on 31st January, 2009. He should tell us their whereabouts and if they are going to be charged or produced in court.

Mr. Deputy Speaker, Sir, as I end, I would like the Minister to table in this House the list of people who have been reported missing, or dead, to police stations within Nairobi and Central Province, clearly indicating the names and the districts from which they come.

Finally, I seek your ruling on this matter, because it is very grave, and on the ground people want to go to the streets again: That the Ministerial Statement should, with your concurrence, be issued tomorrow.

Mr. Deputy Speaker: Is the Minister of State for Provincial Administration and Internal Security not here? If he is not here, then the Leader of Government Business is going to give an undertaking on when the Ministerial Statement is going to be issued in the House.

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Yes, Mr. Deputy Speaker, Sir, we all witnessed the demonstrations in Limuru. Indeed, this is a very grave matter. The Government takes it very seriously. I want to undertake to communicate to the Minister responsible expeditiously, and I am sure that by next Tuesday, he should be able to issue a Ministerial Statement.

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

Mr. Deputy Speaker: Order! Next Tuesday is not far.

Mr. Mwathi: On a point of order, Mr. Deputy Speaker, Sir. I had requested that it be issued tomorrow, but due to the nature of the matter--- The situation on the ground is very volatile. I had to go and talk to the people, but now they are out there. I do not want to keep on doing that over the weekend. If it is not possible tomorrow, can we then get it on Thursday this week?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, I want to thank the hon. Member for Limuru for urging caution, and pleading with his people.

I am able to revise my undertaking and I think the Minister of State for Provincial Administration and Internal Security, Prof. Saitoti, will be here to issue a Ministerial Statement, in view of the seriousness of that matter. The situation is quite volatile. I think he should be ready this Thursday.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. You have given circulars which show that on Thursday and Friday, we are going to be away attending a workshop. So, can we get the Ministerial Statement tomorrow?

Mr. Deputy Speaker: Indeed, we are all anticipating debate in the House. The House cannot adjourn without the leave of the House itself. So, the Motion of Adjournment is going to be there tomorrow afternoon. There is a presumption that we are going to have a Standing Orders Workshop on Thursday and Friday. We are also presuming that the House will agree to adjourn tomorrow. Nonetheless, that is likely to happen. Mr. Vice-President, given the sensitivity of the issue and the fact that lives of Kenyans are involved, would you be in a position to issue this Ministerial Statement tomorrow afternoon?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker,

Sir, I think that is a very reasonable request by the Chair, but we continue to urge patience and ask the people of Limuru to bear with us. We can all understand the fury, if a 75 year old man, who is on medication, cannot be traced. Therefore, I think it is reasonable and the Minister will be here to issue the Ministerial Statement tomorrow afternoon.

Mr. Deputy Speaker: Prof. Anyang'-Nyong'o, do you have a Ministerial Statement?

The Minister for Medical Services (Prof. Anyang'-Nyong'o): On a point of order Mr. Deputy Speaker, Sir. I was standing on a point of order. I want to underscore a statement you made that we need to respect each other in this House. I was away from this country from 10th January, 2009 up to 5th February, 2009. While I was away a letter was circulated in this House and internationally purporting to have been written by me on 13th January, 2009 in Nairobi, while I was in Havana, Cuba. It was purported to be a memorandum from me to the Prime Minister to the effect that we had discussed the matter of the maize scandal and I was making certain recommendations. The letter was a forgery, was totally false, a mockery, completely silly and I have explained to the public where it might have come from. I would like to tell hon. Members that anybody who received that letter should treat it with the contempt it deserves.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Last week on Tuesday, I requested a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the state of affairs of mining in Kitui.

MINISTERIAL STATEMENT

MINING/SETTING UP OF CEMENT FACTORY IN MUTOMO DISTRICT

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Speaker, Sir, I beg to issue the following Ministerial Statement.

The Member for Mutito, Mr. K. Kilonzo, sought a Ministerial Statement regarding limestone mining and setting up of a cement factory in Mutomo District. The specific issues raised by the hon. Member were first, whether my Ministry was approached by Bamburi Cement Limited in August, 2006 to resolve the issue of mining rights in Mutomo District between the County Council of Kitui, Bamburi Cement Company and Athi River Mining Company.

Secondly, the request was whether pursuant to a tripartite meeting chaired by my predecessor on 1st October, 2007 the dispute was resolved, and whether it was agreed, *inter alia*, that in order to adhere to the rules of fair play, no company would be given rights of exclusivity and that both parties would be issued with mining licences in separate locations of Mutomo District.

Three, whether my Ministry communicated with the Ministry of Lands on 18th October, 2007 confirming the issue of a mining licence to Athi River Mining Limited.

Four, whether I am aware that Bamburi Cement Limited, in contravention of the agreement, has written to His Excellency the President seeking his indulgence to invoke his rights under the Constitution in order to confer possession of the trust land within the County Council of Kitui to the Government and subsequently issue exclusive rights to them (Bamburi Cement Limited).

Mr. Deputy Speaker, Sir, Kanziku and Matema locations in Mutomo District are endowed with large deposits of limestone which is used for the manufacture of cement. As a result of this, two companies namely; Athi River Mining Limited and Bamburi Cement Company, developed interest in investing in the area with a view to exploiting the mineral resource. The companies have however not been able to undertake the activities with a mutual understanding leading to disputes which have persisted to this day.

On the specific issues raised by the hon. Member of Parliament, I wish to advise as follows: One, it is true that Bamburi Cement Limited approached my Ministry in August 2007 to resolve the issue of mining rights in Mutomo District between the County Council of Kitui, Bamburi Cement Limited and Athi River Mining Limited. The issue of dispute according to Bamburi was that the County Council of Kitui gave them a single business permit instead of what they had applied for, which was a common mineral licence.

Two, on 1st October, 2007, my predecessor chaired a consultative meeting at the Ministry's headquarters. The meeting was attended by representatives of the two companies, that is Bamburi and Athi River, council officials and the District Commissioner, Mutomo. Among the decisions made in the meeting included; one, that the council parcels out Kanziku and Matema locations into two blocks for the purposes of limestone mining. Two, the council offers a lease for one block per company. However, after the full council meeting, 17 councillors swore an affidavit purporting to convey a contradicting resolution from what was contained in the official minutes.

Mr. Deputy Speaker, Sir, my Ministry vide a letter Ref.No.1142/86/68 of 3rd October, 2007, directed the council to comply with the resolution. The same was customised or domesticated by the council by passing a resolution in a special full council meeting under Minute.No.27/2007, whereby each company was offered the area in which they were already operating. Bamburi was offered Kanziku area while Athi River Mining was given Matema area.

The attempts by the Ministry and the council to resolve the issue were meant to ensure fair play and bar any company from enjoying the rights of exclusivity. However, Bamburi Cement Company was not satisfied with the decision and hence filed a miscellaneous civil application No.ELC/JR84 of 2007 in the High Court of Nairobi seeking judicial review, an order of *mandamus* commanding or directing the second respondent, that is, the District Commissioner, Mutomo District, in the full capacity under the provisions of the Trust Land Act, Chapter 288 of the Laws of Kenya, as a licensing officer of the applicant to mine, take and process limestone deposits in Kanziku and Matema areas within the jurisdiction of the applicant company.

The company also sought an order of prohibition to be directed to the council on one hand and Athi River Mining on the other. This was aimed at restraining the council from granting a common mining licence to any other company or rights to any other party authorising such party to deal with all limestone deposits located in Kanziku and Matema areas of Mutomo District.

Mr. Deputy Speaker, Sir, arising from the institution of the application by Bamburi Limited, Athi River Mining subsequently joined the proceedings as an interested party. This marked the beginning of a protracted legal tussle which has not been resolved or finalised to this day.

Three, it is true that the Ministry communicated with the Ministry of Lands vide letter Ref.No.C/1142111/31 dated 18th October, 2007 conveying the Minister's approval of issuance of lease to Athi Mining in respect of land located at Matema measuring 540 acres.

Mr. Deputy Speaker, Sir, my office is not aware that Bamburi Cement has written to His Excellency the President seeking his indulgence to invoke his rights under the Constitution to confer possession of the trust land within the County Council of Kitui to the Government and subsequently issue exclusive rights to the said company. However, I am aware that the said company, Bamburi, has written to the Head of the Public Service and Secretary to the Cabinet requesting for the Government's intervention in resolving the issue in the best interests of the country and the investors.

In conclusion, it is clear from what I have just enumerated, that there has been a standing dispute in issues related to the limestone mining in Mutomo District. I wish to appeal to all parties in the district to approach the issue with sobriety and objectivity with a view to reaching an amicable settlement for the mutual benefit of all the people concerned.

Thank you.

Mr. Deputy Speaker: Hon. Assistant Minister, just for the benefit of the Chair, is that matter

in court?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Yes, it is, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Under the Standing Orders, it is *sub judice*. How do you proceed?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Speaker, Sir, the statement has not touched on the issues in court. These are just historical facts as evidenced from the files.

Mr. Deputy Speaker: Mr. K. Kilonzo, proceed with clarifications! Steer very clear of matters that can be ruled as *sub judice* here.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I take your counsel. I want to thank the Assistant Minister. If only the Ministry was serious to deal with that matter, I think the people of Mutomo, Kitui would not have a problem. The only problem here is that your superiors have been interfering in this matter. For instance, the hon. Prime Minister has written a letter to both companies giving himself the role of arbitration and yet you have clearly pointed out that as a Ministry, you agreed on where each company should be.

Therefore, I want you to clarify some issues: Is your Ministry competent enough to deal with this matter as you have stated or would this be within the purview of the Prime Minister, who is arbitrating on your behalf?

Secondly, now that you have just confirmed to us that the issue of exclusivity is not entertained, I want to ask you as a Ministry: How then will you go about enforcing the same resolutions which you have said your council resolved on the 27th October, 2008?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, this issue is a little bit sensitive because the leaders from that region seem to have taken sides. The bosses of the Assistant Minister in a sad function very holistically issued a statement in favour of one company. Could he assure this House that no company will be favoured in this issue?

Dr. Nuh: Mr. Deputy Speaker, Sir, the same problem has been illustrated some few minutes ago, regarding local authorities and mining. In this country, issues to do with land fall under the Ministry of Lands. We have a sub-section that says the local authorities are overseeing it for the communities down there. We have the Department of Mining and Geology that gives exclusive mining or prospecting rights to companies that want to mine. On the other side, we have NEMA officers who oversee the environmental impact issues that go down the line. I think there is some sort of confusion.

The local authorities officers who are overseeing this trustland for the communities are more concerned with the levy or fees they get from the companies than with the livelihood of the people that live there. With this inco-ordination, we might end up with an environment that is degraded, lost livelihoods of people and countries which do not care about the future of the land.

Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that the local authorities will give the companies licences for mining in consideration of the livelihoods of the people and the benefits that the companies will deliver to the people who live there and not just the levies they collect from companies?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae): Mr. Deputy Speaker, Sir, the duties of the Prime Minister are very well laid down in the Constitution. His duties are co-ordination and supervision. I would like to assure the hon. Member that this Ministry is competent to handle this dispute, if only the parties could withdraw the civil suit. I will not touch on the actual issue of the civil suit which is on exclusivity and the issue of a sole mineral licence. If the companies could withdraw the civil suit, I can assure the hon. Member that the Ministry does not favour any of those two companies. We want these companies to create jobs for the residents of the area and to start investing in this area so that the people of this area can start benefiting from these God-given minerals.

Mr. Deputy Speaker, Sir, we want these companies to start operating so that they can eradicate the poverty which is currently existing there. So, my request to all the MPs from that area and all the councillors is that they should assist the Ministry to talk to these two companies and withdraw their suit because the only people benefiting from the law suit are the advocates. They are milking from both companies. My appeal to the hon. Members is to talk to these two companies and ask them to withdraw their law suits and we will be able to sort out this matter. This is a very small problem, if only the court case was withdrawn.

PERSONAL STATEMENT

REBUTTAL OF BIASED PRESS REPORTS OVER MAIZE SCAM

Mr. Ochieng: Mr. Deputy Speaker, Sir, I rise on a point of order to make a personal statement on my character under Standing Order No.69.

Yesterday, the KTN in the 9.00 o'clock and 11.00 o'clock news bulletin aired some news to an extent that I had written some two letters to the Managing Director of NCPB requesting for some maize to be issued to some individuals. I was called this morning by the KACC people and I went there. When I reached there, they gave me two letters: One is dated 6th October, 2007 on my letterhead. On October, 2007, I was not yet an hon. Member of this House. I wonder where they got this piece of paper from.

When I look at the second one which is also dated October, the letterhead is mine but the contents and the signature are not mine. My worry is that the KTN is making a very deliberate attempt to tarnish names of Members of this House by insinuating that they are actually involved in the maize scam. This is a very serious matter because people are already dying of hunger due to this scam. I would like your direction as to whether the KTN still deserves to make reports which are made in this House.

Mr. Deputy Speaker: Mr. Ochieng, could you table those documents?

*(Mr. Ochieng laid the documents
on the Table)*

MINISTERIAL STATEMENT

EFFECT OF GLOBAL FINANCIAL CRISIS ON KENYAN ECONOMY

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I wish to make a Ministerial Statement. On 28th January, 2009, Mr. Bahari sought a Ministerial Statement from the Minister for Finance regarding the global financial crisis. In particular, the hon. Member wanted to know the likely adverse effect of the global financial crisis on the Kenyan economy and the steps the Ministry is taking to shield Kenyans against such effects. Arising from the above request, I wish to state as follows:

This global financial crisis was triggered primarily by excessive lending in the housing market in the United States of America without due regard to borrowers' ability to service the mortgages and in an environment characterised by little or no regulation. When interest rates started to rise, many borrowers could not afford the adjusted mortgage repayments. This initially led to defaults for mortgages starting in 2006 which later spread to even creditworthy borrowers.

Bank losses on these mortgages and particularly on the related mortgage bank securities brought a lot of stress on the financial systems in the US. This ultimately caused confidence in the banking sector to collapse because it became difficult to determine which institutions were healthy and which ones were not. As a result, lending through the inter-bank and money market ceased and credit to the private sector dried up.

Given the integrated nature of the global financial market, the crisis led to other advanced economies as well as emerging markets, thereby triggering a global credit and liquidity crunch. Consequently, the global economy is now experiencing one of the worst recessions which is projected to expand by merely 0.5 percent in 2009. Equity markets have fallen and capital flows to emerging and developing countries have declined and many currencies have weakened. The impact of the global financial crisis on the Kenya economy as is the case with other developing economies is that the impact of global financial crisis on Kenya depends on the degree to which the economy is integrated to the global economic and financial systems through trade, investment and financial flows. The main channel through which the impact of the global financial crisis is likely to have adversely affected our economy is as follows:

Recession in advanced countries is likely to reduce the demand for Kenya's main exports including tea, horticulture and coffee in 2009. It is also expected that with weak external demand, world prices of these key commodities will decline and hence result in a deterioration of Kenya's terms of trade. Lower global growth and reduced incomes are likely to reduce tourism receipts for Kenya. However, preliminary economic data does far indicate that there is insignificant effect on the tourism sector.

Another channel of effect is through remittances from the diaspora. As a result of the global recession, businesses abroad are retrenching workers or even closing down altogether. Despite this development, the latest data of remittances by Kenyans in the diaspora show no significant change, so far. In addition, tight global credit conditions are likely to lower foreign direct investment to Kenya.

Donor disbursement will also be curtailed in the medium-term as advanced countries spend more resources on rescue packages and fiscal stimulus programmes in their own economies. We also expect the tight credit conditions to reduce portfolio inflows of investors, if investors flee into safer assets. There are indications that many stock exchanges in emerging market, Kenya included, have declined, because investors have preferred to hold safer assets like bonds, even when their returns are lower.

However, this is not the only factor drying our stock exchange activity. As you may be aware, there are some serious governance challenges which the Treasury is addressing, together with the Capital Markets Authority (CMA). For large businesses in Kenya relying on trade finance, tight credit conditions are expected to limit trade finance access, thereby affecting negatively, the flow of working capital and business expansion.

Overall, while we are yet to receive the full set of data for the last quarter of 2008 and early this year, there are no indications to suggest that the global financial crisis has started to impact negatively on the various sectors of the economy in any significant way. Nonetheless, with global recession now becoming real, the second round effects through the channels I have just mentioned are likely to adversely impact our growth prospects in 2009 and in the near-term. We will continue to monitor the situation closely and provide updates on trends in our key micro-economic indicators as the crisis evolves.

It is also important to note that our economic fundamentals are still strong and will help Kenya wither any emerging adverse impact of the financial crisis. For instance, our foreign exchange reserves remain comfortable, even though they declined slightly recently. Our external debt level is still fairly low, and we have been pursuing sound macro-economic policies, which helped us achieve a strong growth of 7 per cent in 2007.

Other favourable economic fundamental, include reduction in international prices for oil and less exposure to waste, arising from complex derivative instruments, which are yet to develop in our markets.

This, together with less reliance on large foreign borrowing to finance business operations, has resulted in financial institutions remaining unaffected and domestic money markets generally functioning normally, following the first round of the global financial crisis.

On the issue of policy response, let me finalising by mentioning some of the specific steps the Government is taking to mitigate the impact of the global financial crisis on the Kenyan economy, particularly in view of the imminent impact of the second round effect.

Firstly, the Government will continue to sustain macro-economic stability to pre-empt any deleterious impact of the global recession on the economy.

In particular, the Central Bank of Kenya (CBK) will continue to monitor inflation, so as to pre-empt any inflationary expectations that may creep up at the time when interest rates are expected to be low to stimulate economic growth.

Secondly, on the fiscal side, the Government will continue to safeguard any expenditure cuts in infrastructure projects in order to stimulate economic activities. Continued implementation of infrastructure projects will help stimulate domestic demand---

Mr. Deputy Speaker: Mr. Assistant Minister, you have a very long Ministerial Statement. We have not gone into the substantive Business of the House. Could you, please, table the document?

The Assistant Minister for Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, I am just finishing.

Mr. Deputy Speaker: Please, do!

The Assistant Minister for Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, as hon. Members are aware, we plan to issue sovereign bonds in the current financial year to finance more infrastructure projects. However, due to the current financial conditions in the international market, the Government will delay the launch until the condition improves.

Mr. Deputy Speaker, Sir, unless there are clarifications to be sought, I want to end there in order to save time.

Mr. Deputy Speaker: Hon. Members, I will allow Mr. Bahari to seek one clarification and proceed to today's substantive Business of the House.

Mr. Bahari, could you seek clarifications?

Mr. Bahari: Thank you, Mr. Deputy Speaker, Sir. This is a very important matter. I know that there is the substantive Business of the House, but maybe, you could allow, at least, two clarifications.

I appreciate the Assistant Minister's response in the Ministerial Statement, having, perhaps, identified the key areas in which this matter will affect the Kenyan economy.

I am a bit concerned by the casual manner in which this matter has been taken, particularly because of the expected round two effects, in view of the fact that already, in the tourism sector, bookings are declining rapidly. With the kind of complicated inflation, because of oil and the rest of the issues, that is already there, Kenyans are expected to be hit very hard.

Mr. Deputy Speaker: Mr. Bahari, seek clarification!

Mr. Bahari: Mr. Deputy Speaker, Sir, my clarification is whether the Minister has put in place a team to closely monitor this matter on a daily basis, as they are very busy on other issues.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Deputy Speaker, Sir, there is a team in my Ministry, which is very closely monitoring the global recession effects on our economy.

The CBK has a specific department monitoring issues to do with world economic recession. We get reports in Treasury every day.

Mr. Deputy Speaker: Order! Order! Before we proceed to the next Order, Mr. Waititu, from which Minister was your Ministerial Statement?

Mr. Waititu: Mr. Deputy Speaker, Sir, it is supposed to come from the Office of the Deputy Prime Minister and Ministry of Local Government.

Mr. Deputy Speaker: Very well! You will get it tomorrow morning! I hope the Minister is here! That Ministerial Statement should be available tomorrow morning!

Next Order!

POINT OF ORDER

NEED FOR EXTENSIVE CONSULTATIONS BEFORE VOTE ON CONSTITUTION OF KENYA (AMENDMENT) BILL IS TAKEN

The Vice-President and Minister for Home Affairs (Mr. Musyoka): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: What is it?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Deputy Speaker, Sir, I stand on a point of order with regard to Order No.7 as read. In view of the crucial importance of this matter of amendment to the Constitution, and the subsequent enactment of the Bill that will bring into force the Special Tribunal for Kenya, I want to announce to this august House that the Government has been consulting.

I have in mind the very elaborate letter that was written to both the President and the Prime Minister by members of the civil society which was given a wide coverage yesterday. I want to say that the Government is taking seriously the views of even the Law Society of Kenya, and those of other professional bodies.

There is need for Government to be given a little more time in order to consult and carry everybody on board, and also ease the work of the Departmental Committee on Administration of Justice and Legal Affairs, so that we can raise the numbers.

Earlier today, I even suggested to the Clerk of the National Assembly that we have a Supplementary Order Paper. I know that the Chair gave a certain undertaking on Thursday, at the close of business, which might mean that the matter must be put to vote today. However, we think it is important for us to consult for another two days, so that we can do justice, particularly for the victims of the post-election violence. It is very important because people have different interpretations of The Hague, the International Criminal Court (ICC), the Rome Statute and the need to have a local tribunal.

Therefore, I want to plead with the Chair to allow the Government to prepare itself thoroughly. You must have noticed that, this morning, the President and the Prime Minister met with the Cabinet, together with the Assistant Ministers, in an effort to try and be like-minded.

We are making tremendous progress and I know that the Serena Team, together with hon. Abdikadir's team, will be meeting so that they can bring to this House a matter that we can all feel comfortable about.

Therefore, I want to plead with you to allow the Government to proceed that way. That is in accordance with what I have just elaborated.

Thank you, Mr. Deputy Speaker, Sir.

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

CONSIDERED RULING

HOUSE BUSINESS TO CONTINUE IN
ACCORDANCE WITH PROVISIONS
OF STANDING ORDER NO.31

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

Hon. Leader of Government Business, I do understand that today is a Government day. But, nonetheless, the Government has what is called the House Business Committee, where it has the majority Membership.

(Applause)

Indeed, if the Government is very serious, it should have called on the House Business Committee! The Chair, in no way, decides what business is going to be discussed in this House! It is the House Business Committee that decides.

Standing Order No.31(2) states:-

"Business shall be disposed of in the sequence in which it stands upon the Order Paper or in such other sequence as Mr. Speaker may, for the convenience of the House, direct."

Under the circumstances, the business of the House will continue as per the Standing Orders!
Next Order!

BILL

Second Reading

THE CONSTITUTION OF KENYA
(AMENDMENT) BILL

*(The Minister for Justice, National
Cohesion and Constitutional Affairs
on 3.2.2009)*

*(Resumption of Debate interrupted
on 5.2.2009)*

Mr. Deputy Speaker: Order, hon. Members! Since the House is supposed to go into a division, it is important that the Chair makes a certain communication on the same.

COMMUNICATIONS FROM THE CHAIR

VOTING ON CONSTITUTIONAL AMENDMENT
BILL TO BE GUIDED BY STANDING
ORDERS/CONSTITUTION

The consideration of the Constitution of Kenya (Amendment) Bill is guided by both the Standing Orders and the provisions of Section 47(2) of the Constitution.

Hon. Members, standing Order No.61(a) provides that before a vote is taken on a Constitutional (Amendment) Bill, both at the Second and Third Reading stages, the requisite numbers - that is 65 per cent of 222 Members - must be present in the House. Specifically, Standing Order

No.61(a) states, and I quote:-

"The House shall not proceed to a division on that question of a constitutional amendment unless and until a number of Members equivalent to such fixed majority is present at the time for directing the division---"

The rules on division are clearly set out under Part XI of the Standing Orders.

Therefore, hon. Members, as we take Order No.7, bear in mind that the Second Reading will only be taken if the pre-requisite number prescribed both by the Standing Orders and the Constitution are ascertained to be present in the House.

In terms of numbers, 65 per cent of 222 Members adds up to 144.3 Members, which is rounded off upwards to 145 Members, since the words used are "not less than 65 per cent of all Members of the Assembly, excluding the *ex-officio* Members.

Hon. Members, this House will, accordingly, not proceed to a division unless there are, at least, 145 Members present in the House at the time of directing the division.

Hon. Members, please note further that Section 61(b) of the Standing Order states that if the division on that question results in a majority of Ayes but less than 145 Members and the Noes have not numbered 78 Members or more, Mr. Speaker may direct one further division on the same question to be held within seven days.

Hon. Members, let us continue! We are now proceeding on division. Ring the Division Bell!

*(The Division Bell
was Rung)*

(The hon. Members were counted)

HOUSE CANNOT GO INTO DIVISION
WITHOUT THE MANDATORY THRESHOLD

Mr. Deputy Speaker: Order, hon. Members! The count is short of the mandatory threshold.

(Applause)

We have 119 hon. Members present, and we cannot go into Division. It has to be a minimum of 145 hon. Members. I also want to correct something in my initial Communication. You need 77 hon. Members to shoot down the Bill with noes and not 78 hon. Members as I indicated before.

Under the circumstances, as I also indicated before, the Chair may direct one further Division within seven days. The Chair directs that another Division be taken on Tuesday, next week.

(Applause)

Order, hon. Members! The discretion of the Chair to direct a further Division is normally exercised when a Division takes place. So, under the circumstances right now, we will have the next Division on Tuesday, next week. We cannot proceed on Division now because we do not have the mandatory threshold. When we do have a Division and in it we are unable to garner either 145 hon. Members to support the Bill or 77 hon. Members to oppose it in the Division, then that is when the discretion of the Chair will come in for another Division within seven days. So, under the circumstances right now, we have to proceed to the next Order.

Given that Order No.8 cannot be undertaken--- It is a Committee of the whole House on the same Bill; so, before passing Order No.7, the Constitutional (Amendment) Bill, we cannot deal with it.

The same thing applies to Order No.9 and Order No.10. So, the Chair directs that we proceed

straight to Order No.11.

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. I have a lot of regard for the Chair, but the proceedings of this House are governed by the Standing Orders.

Mr. Deputy Speaker, Sir, I wish to refer you to Standing Order No.25 on Page 13, which clearly states what happens when there is no quorum or the Division lacks the numbers. Standing Order No.25(1)(a) provides:-

"If Mr. Speaker be in the Chair he shall adjourn the House without Question put until the next Sitting."

That is what I wanted to draw your attention to, and the next Sitting is tomorrow in the morning.

Mr. Deputy Speaker: Order, hon. C. Kilonzo! There is no lack of quorum, there is a Constitutional threshold and a quorum. Quorum is 30 Members of Parliament. This is a Constitutional Bill. Study it very well!

Let us proceed to Order No.11!

MOTION

ADOPTION OF REPORT ON NOMINATION OF DIRECTOR/MEMBERS OF COMMITTEE OF EXPERTS

Mr. Abdikadir: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, pursuant to Sections 8(4), 9 and 17 of the Constitution of Kenya Review Act No.9 of 2008, this House approves the recommendations on the Members and the Director of the Committee of Experts contained in the Report of the Parliamentary Select Committee on the Review of the Constitution laid on the Table of the House on Wednesday 4th February, 2009.

Mr. Deputy Speaker, Sir, on 17th December, 2008, the Parliamentary Select Committee on the Review of the Constitution was appointed.

*(Several hon. Members started to
withdraw from the Chamber)*

Mr. Deputy Speaker, Sir, I need your protection!

Mr. Deputy Speaker: Order, hon. Members! Please, move in and out of the Chamber in as much as possible, silently, if you can. If you cannot, then consult in very low tones.

Proceed!

Mr. Abdikadir: Thank you, Mr. Deputy Speaker, Sir. On 17th December, 2008, this House set up the Parliamentary Select Committee on the Review of the Constitution. Prior to that, the Constitution of Kenya Review Bill and the Constitution of Kenya (Amendment) Bill were passed, essentially to set the roadmap for the Constitution and anchor that process in the Constitution. Those laws set up four institutions or organs, called the Organs of Review. These include:

1. The Committee of Experts
2. The Parliamentary Select Committee
3. The Kenya National Assembly
4. The Referendum.

The law also envisages a reference group of civil society, labour organisations and professional bodies to interface with the process.

The process also envisages the setting up of four bodies. These are:-

1. The Committee of Experts
2. Interim Independent Electoral Commission.
3. Interim Independent Boundaries Review Commission.
4. Interim Independent Constitution Dispute Resolution Court.

Mr. Deputy Speaker, Sir, Section 8(4) of the Act states:-

"The Committee of Experts shall consist of nine persons, three of whom are non-Kenyan experts submitted to the Parliamentary Select Committee by the Panel of Eminent African Personalities, and six of whom shall be citizens of Kenya."

Section 8(6) of the Act gives the qualifications of the applicants to be appointed as Members of the Committee of Experts.

Section 17 of the Act provides for the appointment of Director of the Committee of Experts.

Following the law coming into enactment, the Parliamentary Select Committee went ahead, in line with the First Schedule of the Review Act, to seek out a human resource firm through competitive process. That process concluded with Manpower Services Kenya Limited being selected, pursuant to Paragraph 3 of the First Schedule of the Act.

The Kenyan Experts include six experts and a director. The adverts for these posts went out on 29th December and were repeated on 5th January. The consultant's shortlist was done with the consultation of the Manpower Services and interviews were conducted by the Parliamentary Select Committee in conjunction with the consultant. The following were, indeed, selected by the Parliamentary Select Committee for nomination by the House:-

1. Hon. Njoki S. Ndung'u - Member
2. Ms. Atsango Chesoni - Member
3. Mr. Otiende Amollo - Member
4. Mr. Nzamba Kitonga - Member
5. Mr. Abdirashid Abdullahi - Member
6. Mr. Bobby M. Mkangi - Member

Mr. Deputy Speaker, Sir, Dr. Ekuru Aukot was selected as the Director of the Committee of Experts. The following are the Members that we wish this House to nominate for appointment by His Excellency the President.

Prior to that, through the Anan led process and pursuant to provisions of Section 8(4) of the Review Act, the Committee received five names from the Panel of Eminent African Personalities for consideration as Members of the Committee of Experts. The Parliamentary Select Committee considered the names and ranked the names as provided for under Section 9(2) of the Review Act. The Committee recommends the following for nomination as part of the Non-Kenyan Members of the Committee of Experts:-

1. Prof. Christina Murray - South Africa
2. Dr. Chaloka Beyani - Zambia
3. Prof. Fredrick Ssempambwa - Uganda

Mr. Deputy Speaker, Sir, Section 23 of the Review Act states the functions of the Committee of Experts as follows:-

1. To identify the issues already agreed upon in the existing drafts.
2. To identify the issues which are contentious or not agreed upon in the existing drafts.
3. To solicit and receive from the public written memoranda and preparations on the contentious issues.
4. To undertake thematic consultations with the caucuses, interest groups and other experts.
5. To carry out or cause to be carried

out such studies, researches and evaluations concerning the Constitution and other constitutions and constitutional systems.

6. To articulate the respective merits and demerits of the proposed options for the resolving of the contentious issues.

7. To make recommendations to the Parliamentary Select Committee on the resolution of the contentious issues in the context of the greater good of the people of Kenya.

8. To prepare a harmonised draft Constitution for presentation to the National Assembly.

9. To facilitate civic education in order to stimulate public discussion and awareness of the Constitutional issues.

10. To liaise with the Independent Electoral Commission on the holding of a referendum to deal with the Constitution.

11. Do such other things as are incidental or conducive to attainment of the objectives and principles of the Review process.

Those are the critical functions that this Committee that we are asking the House to nominate will be doing. The Committee of Experts, as the name suggests, is made up of experts. I believe, at least, four of the ten people we have mentioned hold Doctorate of Philosophy Degrees (PhDs), subject to confirmation. At least, two or three of the others hold graduate degrees up to Masters level. Some of them hold two Masters degrees. We are not very happy that only three out of the nine Experts are women. While we have reached the threshold as far as policy is concerned we as a Committee, would have wished to have more women in that Committee of Experts. To that extent, we feel we have fallen short of what we intended to do. But, at least, three out of the nine are women.

Mr. Deputy Speaker, Sir, we believe that six out of the seven Kenyans are below the age of 50 years. This, again, reflects the country in terms of demography.

Mr. Deputy Speaker, Sir, a number of members of the committee of experts have very strong backgrounds in civic society and involvement in the process of public mobilisation and activism for public good. We believe that one of the criticisms of this process is the over-involvement of the political class.

That criticism is founded on the fact that the Parliamentary Select Committee (PSC) and the National Assembly are part of the political class. The Committee of Experts and Referendum are the other two organs that are part of the four organs of the review. To that extent, we are happy that a large number of people we are proposing, out of the Kenyan contingent, have a strong background in civil society, whether it is women issues, human rights issues or conflict resolution.

Mr. Deputy Speaker, Sir, I must thank the Parliamentary Select Committee. In the last one month and a half, the Committee has literally met a number of times every week. The law required that the Committee was to take its decision by the 2nd February. That is a deadline the Committee met under very difficult circumstances. On 2nd February, which was Monday last week, the Committee sat from about 9.30 a.m., to almost 9.00 p.m. This was essentially to conclude this process. The decisions that are before you were made on the Monday, 2nd February. The next morning when we were confirming the names on the list, a number of issues were raised concerning at least two of the names. One was the director Dr. Ekuru Aukot and the other is Mr. Abdirashid. The Committee was able to look at all the issues raised. One of them was that Dr. Ekuru Aukot was a lecturer.

Mr. Deputy Speaker, Sir, to take you back, the law requires that people serving on this Board ought not be public servants. In determining who public servants are, the Committee took a very stringent position;

that, we follow the definition of public servants under the Public Officer Ethics Act. That is probably the widest definition of a public servant you would get. As a result of that, the Committee was aware that anybody who was serving in Public Service ought not be appointed to this Committee. Therefore, there were issues raised about those two individuals. One of them was that Dr. Ekuru was a lecturer and two, that Mr. Abdirashid was serving on a tribunal.

Mr. Deputy Speaker, Sir, the Committee fortunately was able to look at this very fast. It

required liaison with the Ministry of Education to confirm the fact that Dr. Ekuru was or was not a lecturer and that the tribunal under which Mr. Abdirashid was serving was a creature of this House. So, we were able to bring together all the information. After very extensive consideration, the Committee decided to retain its earlier decision which is to continue with Dr. Ekuru since the Ministry of Education confirmed that he was not a lecturer at either the Kenya School of Law or the University of Nairobi.

Mr. Deputy Speaker, Sir, as far as Mr. Abdirashid was concerned, we noted that on 10th January when he applied for his job, he indeed, did not serve on any tribunal. We were able to confirm that on 28th January, he was appointed without application, to serve on a tribunal set up by this House to look at the salaries of Members of Parliament. We also noted that on 2nd February, he offered a resignation from that post.

The Committee went into extensive discussion on this matter and was able to conclude that in the totality of the circumstances, owing to what these individuals bring, Dr. Ekuru holds a PhD in Law. I come from the legal profession and those are very rare to come by. But more importantly, Dr. Ekuru brings executive experience to the process. He was an Executive Director of another organisation. He was able to bring that managerial experience which we required at that point. The fact that he has a PhD in Law and was able to bring that managerial experience, the Committee felt that he can do the work we required done.

Mr. Deputy Speaker, Sir, as for the other gentleman, he holds a Bachelor of Education degree from Kenyatta University (1989). But more importantly, he holds two masters degrees; one in History and another in Conflict Analysis and Resolution. We realised that one of the critical issues to be discussed during this process is conflict resolution. Moreover, he was one of the few non-lawyers who impressed the Committee during its interview. In the totality of the circumstances, therefore, the Committee felt that we ought to go with these two individuals. So, to that extent, the list of people before the House meet the requirements as far as the Committee is concerned.

Finally, Mr. Deputy Speaker, Sir, I wish to thank members of staff from the Clerk's Chamber who went beyond call of duty and even worked over the weekend to look at this process and ensure that we meet deadlines set by the statutes.

Mr. Deputy Speaker, Sir, I beg to move.

(Applause)

Mr. Namwamba: Mr. Deputy Speaker, Sir, I rise to second this Motion.

Mr. Deputy Speaker, Sir, let me start by saying that, today, we make a giant step in a process that has taken this country no less than two decades. For two decades, we have been on a search for a new constitutional dispensation.

Mr. Deputy Speaker, Sir, this search has cost this country dearly in terms of resources, mental capital and all. During these 20 years, we have stumbled, made mistakes and learnt along the way. We have learnt that in the past, we have failed because of over-personalising the process. Looking back at a processes like Bomas Conference and the Referendum of 2005, we can learn that by personalising the process and building the search of a new Constitution around issues of political contest, we lost the track.

Mr. Deputy Speaker, Sir, we have allowed sectarian interests; religious, ethnic, regional and political, to divide us and completely blind us from the main goal which is to bequeath this country a new constitutional dispensation.

Mr. Deputy Speaker, Sir, we have also failed in the past because organs of review, and if you look at organs like Bomas Conference and Constitution of Kenya Review Commission (CKRC), which were structured around interest groups. Those organs were built around the so-called

stakeholders. So, the Constitution review process ceased to be a process where we can sieve our fears and aspirations as a nation soberly and objectively, to reduce it to a contest built around extraneous issues.

Mr. Deputy Speaker, Sir, today, we start a process with a difference. We start a process where we can sit in this House and say we have seen it all, we have talked the talk and now it is time to walk the walk.

Today, we present to this House, a team of experts that will transform the journey we have had in the past to a purely expert-driven process but with sufficient windows for public participation, including a Referendum and even submission of petitions by members of the public.

Mr. Deputy Speaker, Sir, in selecting the team that the Chairman has ably submitted to this House, primary focus was on expertise. Therefore, the nine persons that the Committee presents to this House are experts of exceptional qualifications in their various fields of learning.

Mr. Deputy Speaker, Sir, we have also taken time to pay attention to concerns of national diversity. Therefore, when you look at the six local experts together with the Director, you indeed, see the face of Kenya. This is not just in terms of regional and ethnic spread but even a reflection of our religious diversity.

Mr. Deputy Speaker, Sir, this process will also benefit greatly from international flavour by the three experts of professional qualifications who bring expertise, not only from an academic perspective, but also from a very practical point. For example, we have the expert from Uganda who was part of the process for the search of the Constitution of Uganda in the 1990s, and the experts from Zambia and South Africa, who have been key participants in the search of new constitutional dispensation, not only in their countries, but beyond their borders.

Mr. Deputy Speaker, Sir, there is an African saying which goes: "If you want to go fast, then you walk alone, but if you want to go far, then you must walk with others." We have attempted to move too fast and as a result, we have not reached far. Maybe, we grab this opportunity to travel far. However, we will only travel far if we walk together as a nation. Within the Parliamentary Select Committee, we have made every possible effort to build consensus. We have made every effort to build bridges across political divides and across our fears to bridge the gap between our aspirations and fears. Therefore, I believe that this team has the capacity to lead this process.

I also want to assuage the fears of those who have expressed - especially from the civil society - themselves, that this process will block the participation of the people. We want to tell them that this team of experts will be handling material that is already in existence and it reflects the broadest possible sentiments and views of the people of Kenya. The team of experts will use materials such as the Bomas Draft, the Kilifi Draft, the so-called Referendum Draft and many other constitutional drafts that we have had occasion to prepare in this country.

I, therefore, think that we have reached a point in time when we must stand up and decide that it is time to give this country a new Constitution. I plead with this House to support this list and allow this process to take off. I beg to second.

(Question proposed)

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I stand to support this Motion. I was a Member of this Committee and we burnt midnight oil to make sure that we came up with the nine names consisting of both local and international experts. We agreed. As usual, people disagree to agree, but at the end of the day, we came up with issues that we all support as Members of the Committee.

It is important for Kenyans to know where we have come from. This is because we have failed in this mission because of our own selfish interests. We failed to remind Kenyans of our history. That is

why as Christians, if you want to understand the Bible clearly, we must remember the history of our people; that is, Abraham, Isaac and Jacob. That way, you will understand the Bible to the Revelation.

Kenyans must understand where we are coming from. This is a struggle that we are now achieving, having started in 1998 when we were agitating for multi-party democracy and hence, the need for a new Constitution. It should not be lost to Members of Parliament that we have lost many lives. This country has been paralysed because of politics of individual interests.

Mr. Deputy Speaker, Sir, today, we must rise up to the occasion. By adopting these recommendations today, we shall have made a long stride towards enabling Kenyans achieve a new Constitution. This is the process that will completely jumpstart the making of a new Constitution in this country.

Mr. Deputy Speaker, Sir, before this Order was read, we were debating issues to do with the Hague. Why are we Kenyans today discussing issues to do with a special tribunal and the Hague? It is because we failed in our responsibilities as the leaders of this country. We failed to do what was required of us as leaders 20 years ago. Because of what we failed to do during the referendum and the Bomas Conference, today, we are judged by history. We say history will repeat itself because man does not learn from it.

During the Bomas Conference on Constitution Review, some people argued that no country has ever come up with a new Constitution in a situation where there is no war. That new Constitutions come up after war. That is what we asked for and a year later, we went to war. That is true. We lost over 1,500 people. Today we are talking about hunger in this country because we were at war one year ago. We now have a reason to amend this Constitution in order to come up with a new one. Already we have experienced that.

Mr. Deputy Speaker, Sir, I went through the whole process at the Bomas of Kenya; that is, from the formation of the Committee, the Opposition and the Government agreeing to come up with a Committee and so on. We went ahead to appoint the delegates from the constituencies and the whole process became political. We could not agree as Kenyans. We could not see the need of being nationalists. We argued as individuals and fronted the interests of our godfathers and godmothers - if that word exists. Today, all of us are crying because of one tragedy after the other. Today, we are debating whether to set up a special tribunal for the suspects or send them to the Hague.

The Referendum was politicised. We talked of contentious issues that really never were. We sat at the Bomas of Kenya and we could not agree. We disagreed because of very few issues, say, five per cent of the whole Constitution. We did not agree because we thought the Constitution was being made for the benefit of this-and-that tribe and this-and-that community. Today you can see the repercussions. What we were stopping during the Referendum and what we did not agree on during the Bomas Conference would not have come to being. We talked of cross-breed Government and so many other things. We are now experiencing all those things. I believe that with or without these experts, Kenyans can rise and say; "this is the Constitution we want."

Mr. Deputy Speaker, Sir, today, I do not agree with anybody that we can have angels coming here to make a Constitution for this country. With the goodwill of Kenyans, this process can even go for only three months and it will be done. I believe that with the problems facing this country, if we can get out of this whole process without another referendum, it will be good for us. When you talk of a referendum, you are talking of billions of shillings and yet today, there are Kenyans languishing in poverty and dying of hunger. Do we still want to take them through the same process once again? It is because we cannot come out as leaders to convince our people that this is the way forward.

Mr. Deputy Speaker, Sir, even if it is a must that we go for a referendum, we can go for one that is very simple and one that will not cause Kenyans any more economic pain. We can agree on this issue. If you look at what we went through, that is, the Bomas Conference, the Referendum, the 2007 General Election, and what is happening today, we must agree as leaders that we talk about this

country as one country. We have seen that one of the roles of the Committee of experts is to make sure that we have civic education. One thing that I will urge this House is that when we get to the stage of civic education, Kenyans must be educated on the issues of having responsible leadership.

We need to have responsible leaders. Kenyans must be reminded of their role in electing responsible leaders. Today we are talking of corruption in this country, but where did it start? It starts with our voters. Before they vote for us here, they want us to give them *kitu kidogo*. So, the corruption starts there. Through civic education, we must go and tell the voters that if we really want to fight corruption in this country, we must start with them so that when you go to seek votes from them, they will not ask you for money. That way, they will understand that by asking for money from us so that they can vote for us, they will have already comprised themselves. They will have sold their rights and shut their mouths on issues of corruptions because they themselves corrupted us leaders in order to be elected to this House.

So, we must be very candid. We must tell them the truth. We cannot tell them so because we will not be elected again. We want to keep quiet and continue with business as usual. The time has come for some of us to stand up and be counted. We must tell this nation that the time has come for us to go.

Mr. Deputy Speaker, Sir, as a young leader, I have nothing to lose personally. But I have something for Kiunjuri, who is now 80 years, to lose. We must rise up now. This Parliament consists of over 70 per cent young men. When I talk about being young, I consider Mrs. Ngilu and Mr. Musyimi to be old. That is because there are few Members of her age in this House. Those are the old people that we have in this Parliament. The rest of us are too young now.

An hon. Member: How do you know?

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Deputy Speaker, Sir.

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

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Deputy Speaker, Sir, is it in order, really, for my Assistant Minister, whom I have trained, mentored and helped to become a Member of Parliament here, to stand up and say that I am too old and that I should not be here in the year 2012? At any rate, years are just but a number.

Mr. Deputy Speaker: Order! Hon. Kiunjuri, you are out of order. Mrs. Ngilu is not old!

(Laughter)

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, what I meant is simple. Now you can imagine the young turks like hon. Ngilu, hon. Karua and the rest being considered threatened by the "young". Even me personally, I am getting aged because in this Parliament, we have Members who are 28 years. I am now 39 years old. You can see what I mean. But to get to the point - because this is a very serious issue - we must address these issues as young men, nationalists and Kenyans. We must make sure that we make a difference for the first time.

The only thing we can do for this country and for posterity, so that we can be remembered by generations to come--- I will do it not for my own self, but for my legacy. I will do it for this country. I will do it from my heart. I will sacrifice to make sure that in the years to come, this country will no longer be a third generation in terms of legislation. When you talk about issues that can affect this country, we must know that we have a country to live in.

Lastly, Mr. Deputy Speaker, Sir---

An hon. Member: Tosha!

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I have said "lastly", and that is not the "lastly" for a politician. That is because politicians will say

"lastly" but still continue for a long time.

What we experienced after the elections in 2007 was an eye opener for all of us. We came to know that you can be the aggressor and the aggrieved but, by the end of the day, as leaders in this country, we must know that if there is no peace in this country, we will have no place to live. We must also realise that, if we do not give Kenyans a new Constitution and there is a repeat of what happened in 2007, all of us, as leaders, will be the first people to suffer. Before the common mwananchi down there who is today oppressed because of the bad laws that we have starts shedding any tears, all of us will be miserably affected by that course.

So, I urge Members to support this process. They should not only support it at the beginning, but until the end. As Members of the Committee, we have agreed to put our differences aside. We have not discussed any issue as PNU or ODM in that hall. It has never arisen. We have set a good example as a Committee. We would also like this House to be very sober and discuss the issues before us not as individual Members of Parliament from particular parties, but as Kenyans who would like to see this country move forward.

With those few remarks, I beg to support.

Mr. Musyimi: Mr. Deputy Speaker, Sir, I stand to support the recommendations by the Parliamentary Select Committee and commend them for what appears to have been a job well done.

One gets the impression that the good of the nation was what was at stake. We can only hope that this will guide the deliberations that lie ahead because I think there is a rough road ahead. Constitution making is never easy. We hope that we will be able to agree and guide our people.

Mr. Deputy Speaker, Sir, now that the Minister for Justice, National Cohesion and Constitutional Affairs is here--- It is very good to see her here. Ms. Karua, could I just use this opportunity because I shall be very brief, to really plead, through you, Mr. Deputy Speaker, Sir, that this Constitution of Kenya Review Act of 2008, as the hon. Minister will know, has a schedule that is supposed to be part of the Act. That Schedule is supposed to come to this House and the Minister should tell us when that will happen.

Mr. Deputy Speaker, Sir, that is because in that Schedule, as a Member of the Department Committee of Administration of Justice and Legal Affairs and, as part of this National Assembly, we wanted to make sure that there was a structured way of involving other people who are not experts and Members of Parliament to make sure that they can be able to put their input and, therefore, enrich the discussions that will guide us.

Mr. Deputy Speaker, Sir, I think it would be very helpful if the hon. Minister could, at some point, tell us when that Schedule of 30 different organisations will come to the Floor of the House so that we can approve it. That is because once we start the process and there are people who feel that they should be part of that process---

Mr. Deputy Speaker, Sir, those people are supposed to be part of the process by law and their involvement has not been activated. They will begin to feel left out very early. The whole suspicions of politicians and non-politicians begin to entrench themselves at this stage. I would really like to ask whether the hon. Minister could tell us when that Schedule will be tabled, so that we can dispense with it and allow other members to be part of the process.

With those few remarks, I beg to support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Thank you, Mr. Deputy Speaker, Sir, for allowing me to support the adoption of the Committee's Report, and also answer the questions that have been raised by hon. Members.

Mr. Deputy Speaker, Sir, we are aware that there was a Schedule agreed to by Parliamentarians and my Ministry. We are waiting for the Attorney-General to publish the Statute Law Miscellaneous (Amendment) Act. I know that they are working on it.

Mr. Deputy Speaker, Sir, it is an omnibus legislation and it is waiting for the amendment of

other Bills. But I can promise you that when we adjourn this time, and before we come back, it should be ready. We will not have required it according to the timeline. So, we should gear ourselves to have it passed by about April or May, so that we do not delay the constitutional review process.

Mr. Deputy Speaker, Sir, I would like to hail the Chair and Members of the Select Committee for working overtime, and also for doing the best to build consensus on the names that are now before the House. We are aware that we have a long journey towards the completion of the review process. We really have to sharpen our acts of bargaining and accommodating one another.

Mr. Deputy Speaker, Sir, we also realise that the few numbers of people that we are going to nominate to do this or the other bit in the constitutional review process, all cannot be represented.

Not all our villages and constituencies will be represented. We have to learn to trust one another. You represent me in one place and I represent you in the next place. I, therefore, urge that we all move forward, knowing that we will have to build trust and let each other do whatever they can and do their bit in this review.

I want to support the hon. Member who talked about corruption. I would like to say that corruption, in my view, does not begin with the voters. It begins with the political party. When we have political parties that are not well organised, embrace violence, do not respect democracy and embrace corruption, that is what we take on to the elections. It is, therefore, important that we embark on the Constitutional Review process, which is a gateway to reforming the three arms of the Government. With regard to corruption, in other jurisdictions in the commonwealth like Ghana, Rwanda and Uganda, the Attorney-General is also the Minister for Justice.

We may want to consider, when reforming the Constitution, avoiding looking at individuals, because we do not know who will occupy the position, merging the two offices, so that we do not have a disconnect between policy statements and implementation when it comes to prosecution and investigations. We will be doing ourselves a favour by adopting this report and commencing the Constitutional Review proper, so that we can open the gate to serious and fundamental reforms in this country.

With those few remarks, I beg to support.

Mrs. Shabesh: Mr. Deputy Speaker, Sir, I want to thank you for giving me this opportunity to support this Motion. I want to speak for a very short time, because I want to give my colleagues a chance to also speak. I want to recognise the good work that has been done by the Parliamentary Select Committee. This was the reason why the foundation of the Constitution was very important; we needed to get a Parliamentary Select Committee that works together and looks beyond party affiliations. I am glad that the way they are doing their work is a testimony to the fact that Kenyans can work without getting into political divisions.

The names that have been forwarded to us, that we are now supporting, also show clearly that there is a reason why they were put on board. The explanation given by the Chairman satisfies not only us, but also Kenyans at large. I want to acknowledge the two women, whose names have been recommended. As far as the women's movement is concerned, we are extremely delighted and very proud of the Parliamentary Select Committee for getting us women with good track record on the issue of the Constitution.

I also want to recognise that within the Parliamentary Select Committee is found the three dimensions of society that, for many years, I and others have advocated for; that the young, the old and women can work together to achieve something. I refer to the young leadership in the Committee in the name of the Chairman, the Vice-Chairman and Mr. Kiunjuri, who are young people. Then look at the women who sit on the Committee. They represent on board the kind of women who have fought for democracy in this country. They also include those from the civil society.

Look at experience. We bring on board the experience of Mr. Mudavadi, Mr. Orengo, Mr. M. Kilonzo, Mr. Wetangula and others. What I am saying is that it is a lesson that Kenyans can move

ahead if we bring all these segments of society together.

With those few remarks, I support.

The Minister for Nairobi Metropolitan Development (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I beg to support this very important Motion. This is the beginning that we have always been waiting for. First of all, I want to congratulate the Chairman of the Committee and the Members, because this has been very difficult work. Unknown to the country, sometimes, this Committee has been meeting until about 10.00 p.m. at night.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of order, Mr. Deputy Speaker, Sir. It appears as if you are giving disproportionate time to the Members of the Parliamentary Select Committee who have actually discussed these things all through. Would I be in order to ask you to give time to those who are not Members?

Mr. Deputy Speaker: Order, Mr. Kamama! Those are Members of the House; try to catch the Chair's eye.

The Minister for Nairobi Metropolitan Development (Mr. M. Kilonzo): Mr. Deputy Speaker, Sir, I will be very brief, so that my very good friend, whom I hold in very high regard, can get a chance to speak.

I want to speak about the experts, those who were lucky to find their way to this list. I want to tell them that this country has gone through an enormous hand-wringing, looking for people of this nature, so that they can sit down and tell the country what the contentious issues are, and which ones are not. They will also tell us those issues that we will put on the fast lane and those that we will put on the slow lane.

I want to plead with them to rise to the occasion and avoid the temptation to think along tribal religious or sectoral lines. I want to plead with them to speed up the process of making recommendations to this wonderful country. The debate that has been going on in the last few weeks is indicative of the enormous suspicion in the minds of the public about public institutions. These experts are the first yardstick to enable us to tell the country that we are turning a new leaf, and that we are forming institutions that can pass the test of quality performance.

Secondly, let me talk about corruption. Even the Government itself, as we speak, is facing an enormous image problem of seeming to condone, participate or sponsor corruption in this country. The Committee that we have established must be able to make recommendations to this Chamber, so that for the last time, we, as a country, can produce a new Constitution that addresses agenda Item Four of the mediation work at Serena Hotel. We want to eliminate corruption once and for all, and create accountability and transparency.

With those few remarks, I beg to support.

Mr. Affey: Mr. Deputy Speaker, Sir, finally, I have been able to catch your two eyes.

I rise to endorse and support this very important report. The matter of making the constitution has been with us for many years. I want to begin by congratulating the Committee, particularly on the election of the Chairman and his deputy. The election of this particular Chair has a different meaning for us, as Members from northern Kenya and other arid lands.

It is a testimony that we are now even more than ready to play a more serious leadership role in this country, including the role of the Presidency. If the country could entrust us with such a critical process, there is no reason why Mr. Y. Haji, myself or anybody else, for that matter, cannot contest the Presidency of this country and get elected.

I also want to acknowledge and thank my party Secretary-General, Mr. M. Kilonzo, because he is the one who proposed Mr. Abdikadir. That shows how ODM-K means well for us following my nomination to this Parliament.

Mr. Ethuro: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Affey to use

this opportunity to campaign for his party, ODM(K)?

Mr. Deputy Speaker: Mr. Affey, confine yourself to the subject matter of our debate.

Mr. Affey: Mr. Deputy Speaker, Sir, I have made my point. I want to say that the group of experts we intend to endorse today, will fulfil one of the most important aspects of the Act itself under Section 5. There is a requirement that we create this group of experts, and the only remaining bit now is the referendum.

I would like to request the Members of the Committee to be very vigilant, and to spend minimal time on its work, so that within three months, or six months at most, we can have a document that will be acceptable to Kenyans and that, hopefully, will not be as controversial as the one we have had before. We already have the basis for the final decision to be made by the Kenyan people. We have the Bomas Draft, the Kilifi Draft, the Report by the Bethwel Kiplagat Committee and many others. This group can use all those documents, so that we can, fairly quickly, get a document that will reflect the true feelings of the Kenyan people.

With those few remarks, I support and wish the group of experts all the best.

The Assistant Minister for Forestry and Wildlife (Mr. Nanok): Thank you, Mr. Deputy Speaker, Sir, for giving this golden opportunity to stand up and support the adoption of this Motion by this House and I will be very brief.

Mr. Deputy Speaker, Sir, indeed, we started a very long journey that has taken us through so many pitfalls. We saw what happened during the referendum; the divisions that were there in the country. We also saw what we went through during the last general elections where every single Kenyan from all corners of this country was yearning for change and that change could not come through a Constitution that was limiting the efforts of many people. So, indeed, the process we have begun now of reforming our governance structures is what this House can be able to give to Kenyans out there.

It is very urgent that we review the Constitution and have another Constitution. It is also important that we avoid having makeshift changes in the Constitution but we reform the entire Constitution so that it takes in all those who say that our present Constitution is marginalising them and not taking their interests at heart.

Mr. Deputy Speaker, Sir, I commend the work that the Select Committee has done and we will continue to support them in the mandate that this House has given them in concluding the selection of the other committees.

The Committee of Experts and the Director of the Committee of Experts whom the Chairman of the Select Committee has just informed us about are all competent persons in diverse fields. They have, as mentioned by the Chairman, a lot of experience in law and legislative work. Some members have been former Members of this House. Some members have been working with the civil society and some have expertise from countries outside our own. I believe given that they are representing the face of this country, that is the young, old and women, they will do a good job and I have confidence in them.

Mr. Deputy Speaker, Sir, I am thankful to the Select Committee that it saw it fit to include some of those who have been crying about marginalisation in this country through their own abilities in this Committee, so that they can partake in helping us getting a new Constitution.

With these few remarks, I beg to support the adoption of this Motion.

Mr. Wamalwa: Thank you, Mr. Deputy Speaker, Sir. Let me also join my colleagues in supporting this Motion and also saluting the Parliamentary Select Committee on the Review of the Constitution for going the extra mile. I am told some worked through Christmas while we were away on holiday, to actually achieve the progress that they have so far. We must congratulate them. We must also congratulate them for what they have presented before this House and actually the

quality and the calibre of the experts that they have presented before us.

Mr. Deputy Speaker, Sir, just going by the names, they are professionals who have practised law in this country for many years. They are professionals who have practised in other fields and just looking at their names, there is no doubt that they are all very qualified but also they are persons who are immensely able. We must congratulate the Committee for this work.

Also looking at the names, there was an effort and you can tell that they have tried to achieve regional balance. Just looking by the names, they come from all regions. They have tried to achieve gender balance. They have got very competent women professionals and we must congratulate them for this. All I urge is that as they take up this very heavy responsibility. These professionals are assuming a great responsibility going by the Act and the role they have to play in the road map towards giving Kenya a new Constitution. It is really an immense responsibility.

Mr. Deputy Speaker, Sir, all I would urge is that as they go along in executing their work, it should be a consultative process. It should be an all inclusive process rather than an exclusive process. So, I will urge the experts as they go along, to observe this.

Lastly and most importantly is that, what we are doing today really marks a milestone in the history of this House. In a nation where we have had an imperial presidency, an overbearing Executive and a very feeble Judiciary and a toothless Parliament, what we are doing today to have these names presented to Parliament for approval, is a milestone.

We must strive as a House to actually do much more in days to come, to assert the authority and sovereignty of the people of Kenya such that we do not leave it to the Executive to continue being overbearing over the other institutions. This way, this House will be able to approve and it can also reject any names presented here that actually do not qualify. This will actually boost this nation in its march from what has been an autocracy towards a meritocracy. We are creating a meritocracy in this country because those who hold offices, will be recommended and will meet the approval of this House, will no doubt be qualified and competent Kenyans. We will be promoting merit. It is, indeed, a milestone. I just wish to congratulate the Committee and to support this very important Motion.

Thank you.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): Thank you very much, Mr. Deputy Speaker, Sir, for giving me this chance to also support this Motion. I wish to say that we have a lot of confidence in the Parliamentary Select Committee and the team of experts because they represent Kenya. Kenyans are tired of semantics, theatrics and pretence. We have taken quite a lot of time in travelling this journey of getting a new Constitution. The people in the team of experts who have been selected will do a good job and we promise to support them in every step of the way.

Mr. Deputy Speaker, Sir, I want the team of experts to look specifically at the issue of tribalism. Tribalism is our cancer and we need to find ways and means of tackling this cancer so that we have a situation where we will be talking about one Kenya, one nation, one people and the dream that we have been talking about in the entire week.

There is regional balance in this team of experts. I am not sure about the longitude or latitude of areas like North Eastern Province. The director comes from the remotest part of this country. The most important thing is that he has what it takes to - the academic credentials and the qualifications, - deliver what Kenyans want in this assignment.

Mr. Deputy Speaker, Sir, we will go to the referendum. The referendum that we had last time really divided Kenyans along ethnic lines. We need to have a situation where we will talk about "yes" and another "yes".

We do not want to divide Kenyans on the basis of orange, banana, mango or tomato. We want a "yes", "yes". We can get the figures of those who are opposed and those who are for it so that we do not have a divided nation.

We have done quite a lot in the last Parliament. When we tried to get the new Constitution, we had several documents and I am happy that they have been mentioned here. We had the famous Bomas Draft, the Kilifi Draft, the Wako Draft and several documents from Ufungamano, NCEC, churches and even the Naivasha Accord. I want us to factor in all this and make sure we get a new Constitution within the shortest time possible. Let us not spend taxpayers' money. A lot has been done.

Lastly, I want to talk about the contentious issues. We do not want to have a Constitution that will serve a single personality. If you read a book by a person called Duale, it describes what Siad Barre said before he left Somalia. The book is entitled: "From Siad Barre to Farah Aideed." Said Barre said that upon his departure, Somali would never have a country. We do not want a Constitution that will promote a one-person agenda. We want a Constitution that will promote the agenda of Kenyans irrespective of their tribes, origins and everything.

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

The Assistant Minister for Medical Services (Mr. Mungatana): Thank you, Mr. Deputy Speaker, Sir. I have two points. First, the list that we have presented before this Parliament is made up of people who have not been tainted by corruption. This is the one thing that is so annoying to the ordinary Kenyan. Corruption is a topical issue right now. Everybody is annoyed by what is happening in the country today. It is being said that some people in the Executive are trying to manoeuvre and protect certain individuals by law in this country. We have cross-checked the list we have presented and we had a little disagreement. One thing we agreed on is that these people have not been tainted by corruption. So, we have to support this list.

Secondly, in setting up the team of experts, there are two categories: There is the category of foreign experts and the category of the local experts. I have to say here that it is not within the ambit of the Parliamentary Select Committee to set the terms and conditions of service of engagement of the people who we are approving today as the committee of experts.

It should not be lost on Kenyans that in the Kriegler Commission and the Waki Commission, there were terrible discrepancies between foreign experts and the people who were seated as locals. This created very negative relations. You would find yourself sitting with someone who does not have any special expertise but is earning double the amount of money that you are earning. Why do we make people from our areas and homes to be lesser gods? It should be contained in the parliamentary records that we want parity in the terms and conditions of service of these experts.

The people we are approving here are no lesser qualified than those who are coming from - I do not know which other country. We agree that the AU has screened and approved them. But we have also approved that list in this Parliament. We have better qualifications in terms of looking at all the other things that need to be looked at. I want it to be on record that there should be parity of the terms and conditions of those experts.

I am speaking from experience because some of the people who worked, for example, for the Kriegler Commission, you will find a lawyer for the Commission, - just because he is an ordinary Kenyan, people think he should be paid less. This attitude must end. As we pass this Motion, we must be very clear in this Parliament that there must be parity. Let those experts come. Let them be given a little bit to distinguish whatever their problems will be. Kenya is so developed. There is no problem. They will be living good lives here. If they have any problem, they can see me. I will talk to them. We must have parity and good terms of service.

With those few remarks, I beg to support.

Dr. Kones: Thank you, Mr. Deputy Speaker, Sir. First of all, I support the Motion on the adoption of the names of experts. I want to take this opportunity to thank the Parliamentary Select Committee for the good work that they have done. I would like to emphasize the fact that they have been able to do this because of the neutrality and impartiality of the leadership of that PSC.

As we said previously, age is not an issue but it is a factor. The young people who are leading

the Parliamentary Select Committee have really done very well on steering this Committee. The Committee of Experts has got a very wide mandate of delivering a new Constitution in this country after a very long time of attempt. I am very optimistic that we have started on the right footing. This time round we will achieve that new Constitution we want. I would like to urge all the three or four organs of this Constitution-making process to rise above party politics as they continue with their work. That is more so with the Committee of Experts.

I have looked at the names in the list and I agree that, these are people of high calibre. However, I noticed that of the nine experts, eight are from one profession, the so-called learned friends. I really do not know why there was this bias. Is it a rule that Constitution-making is the domain of lawyers only? I really do not believe so. As we constitute the other committees on boundary review and the others, I want to plead with the Parliamentary Select Committee to ensure that they also incorporate other professionals in those committees.

Mr. Deputy Speaker, Sir, I would also like to emphasise the fact that as we also look at these professionals, let us also put into consideration the fact that there are those emerging professionals with less experience but they are useful in this process. Let us have people who are not very old as such. I can see that the ones who have been selected are in their forties or fifties. Let us have in the new committees people in their thirties and even late twenties. I am sure they will contribute very well in these committees.

With those few remarks, I support.

Mrs. Noor: On a point of order, Mr. Deputy Speaker, Sir. Since we are all in agreement regarding the Motion, would I be in order to ask that the Mover be called upon to reply?

(Question, that the Mover be called upon to reply, put and agreed to)

Mr. Abdikadir: Mr. Deputy Speaker, Sir---

Mr. Nyamweya: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Chair to only see the people sitting next to him? I have sat here for many days, and there is no time I have caught the eye of the Chair.

Mr. Deputy Speaker: Order! Order, Mr. Nyamweya!

Mr. Nyamweya: Mr. Deputy Speaker, Sir, I must put it on record!

Mr. Deputy Speaker: Order! Order! Mr. Nyamweya, indeed, you have sat there, at the back, all the more than one year period you have been in Parliament. You will admit that there are many times you caught the eye of the Chair, and you did contribute to debate.

Hon. Members, you do not want to say that you have never contributed to debate because you sit at the back. Catching the eye of the Chair is a privilege, and not a right. In any case, everybody who contributed to the Motion is a Member of this House. There is no stranger who has been contributing!

Proceed, Mr. Abdikadir!

Mr. Abdikadir: Thank you very much, Mr. Deputy Speaker, Sir. May I thank the hon. Members for the confidence they have expressed in the Committee. On behalf of the Committee, I am glad that the House is appreciative of the long hours the Members of the Committee have put in this process, mostly because these Members of the Committee also have other responsibilities as either Members of Parliament or Members of the Cabinet.

Let me respond to one of the last issues raised about there being too many learned friends in the Committee of Experts. That is, indeed, a valid criticism. Indeed, on many occasions, we have had to ask whether we could get the second-best qualified person from another profession, essentially because the person who was on top of the list was a lawyer, and the Committee did rule on that one.

Mr. Deputy Speaker, Sir, I am glad to state that a number of times, it was the non-lawyers in

our Committee who felt that we should go for the best qualified persons in the process, irrespective of their professions. The Committee is alive to the fact that many times, members of the legal profession have been seen to benefit from these processes more than members of other professions.

It is, indeed, for that reason that the Committee proposed the deletion of the requirement that the Chair of the Interim Independent Boundary Review Commission should be a lawyer. That position has now been adopted by the House. We are glad that there is no requirement now, for that qualification. It is, indeed, a valid criticism. We intend, next time, to see how we can bring on board members of other professions, who bring quite a bit to the table.

Mr. Deputy Speaker, Sir, in terms of regional balance, we are, again, happy that the House sees that the membership of the Committee of Experts we have proposed is the face of the nation in terms of diversity. But may I hasten to add that, while that is the case, it is not the intention of the Committee that they be representatives of those regions.

On the contrary, they must be seen as experts for which their skill and expertise is, really, the core function that we are seeking of them, and not as spokespersons of the regions they come from. For the same reason that my able Vice-Chair indicated that we intend to move a process, not on stakeholder basis, but on the basis of a national process from which we should be able to get a new Constitution.

Mr. Deputy Speaker, Sir, we intend to look at this institution as a group of experts who will be able to give us, through their skill and expertise, a product that is acceptable to Kenyans. So, while we are thankful that they represent the face of Kenya, it is not intended that they come on board as advocates for various regions, but, indeed, as Kenyans and experts from whom we expect a lot.

In terms of the reference group that Mr. Musyimi mentioned, the Committee is well aware of this fact. Indeed, in our discussions, we got confirmation from the Minister for Justice, National Cohesion and Constitutional Affairs, as she did again today, that, that reference group should be included as one of the other arms of this process.

Mr. Deputy Speaker, Sir, again, let me point out the fact that we are alive to the criticism from the public that this process ought not be dominated by politicians. So, we, as a Committee, intend to ask of the membership of the Committee of Experts that they do not, again, become mouth pieces of politicians or political parties or any political interests.

Mr. Deputy Speaker, Sir, one of the biggest weaknesses of the Constitution of Kenya Review Commission (CKRC) process was that individuals or members of the CKRC were beholden to interest groups and political views. That way, what was seen at the CKRC was, essentially, a replication of the political fights that were going on in the country at that time.

This time round, Mr. Deputy Speaker, Sir, we intend to proceed in a different way. Every political fight should be done by Members of this House either in this House or, in an unfortunate circumstance, in the Parliamentary Select Committee (PSC). It should not be done either in the referendum or in the Committee of Experts. So, we will be calling upon the experts that we will select, and whom we hope will be nominated, not be tied or beholden to any political grouping or interest.

Mr. Deputy Speaker, Sir, about the process being inclusive, we intend to make it as inclusive and consultative as possible. We have three out of the nine experts being women.

As regards the requirements of the policy currently, we were alive to the fact that, we were hoping to get more. Indeed, as far as the foreign experts were concerned, we were disappointed that the Annan Process sent us one woman out of the five experts that they sent us. There was quite a bit of debate in the Committee as to whether we should send those names back so that we have more women out of that process. We are happy, though, that, at least, we have met the minimum requirements.

Mr. Deputy Speaker, Sir, in terms of the process moving forward, this House will be called upon, time and again, to support the process by giving it leadership, guidance and direction.

Specifically, Mr. Deputy Speaker, Sir, once the contentious issues start being debated, we will ask hon. Members of this House to desist from making extreme views, especially on the issues that are contentious, out there in public fora. This process needs consultations and compromise. It will be that much harder for the process to be concluded if the key leaders in the country go out to the public and make extreme views; very one-sided views on those issues.

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

(Applause)

(Question put and agreed to)

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time to interrupt the business of the House. The House, therefore, stands adjourned until tomorrow Wednesday, 11th February, 2009, at 9.00 a.m.

The House rose at 6.30 p.m.