

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 7th May, 2008

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWER TO QUESTION

Question No.024

LIST OF COMPANIES BLACKLISTED FROM AWARD OF GOVERNMENT CONTRACTS

Mr. Shakeel asked the Minister for Roads whether he could table an updated list showing road construction firms and companies that have been blacklisted, precluded or suspended from award of Government contracts.

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

My Ministry has not blacklisted, suspended or precluded any road construction firm or company from award of Government contracts.

Mr. Shakeel: Mr. Deputy Speaker, Sir, I was expecting a better answer from the Minister because we have been told here severally that very many contractors have been blacklisted or suspended for not doing their work. This is a very surprising answer from the Minister. Either he is not aware or does not have any official list of suspended and blacklisted contractors. So, people just decide who has been suspended or blacklisted so that they---

Mr. Deputy Speaker: Order, Mr. Shakeel! Ask your question and do not give a speech!

Mr. Shakeel: Mr. Deputy Speaker, Sir, could the Minister kindly inform the House if there are contractors whose contracts have been terminated or put on a watch list?

Mr. Kones: Mr. Deputy Speaker, Sir, the truth is that we have not blacklisted or suspended any contractor. However, we have terminated contracts of certain contractors. So, probably, if the hon. Member would want to ask who these contractors are, then I will answer him accordingly.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, it is very clear why we have so many potholes all over this country. There are road projects which have taken five years to be completed and yet the Ministry is doing nothing. It means that his Ministry is already compromised by the contractors. A simple road like the one from Machakos to Kitui has taken more than one year since the contract was awarded. Could the Minister inform the House what his Ministry is doing to ensure that disciplinary action is taken against contractors who do not abide by the terms of their contracts?

Mr. Kones: Mr. Deputy Speaker, Sir, it is true that certain contractors take a lot of time to mobilise effectively. As my good friend said, it is true that the contractor for the Machakos-Kitui Road has delayed by nearly 30 per cent. Soon, we will decide whether to terminate his contract or not. However, it is not that easy to terminate a contract because they also write back to us saying why they have not been able to

mobilise. Some of the times it is the Ministry's fault when we have not paid them effectively to be able to mobilise. However, for Victory Contractors, we will take action against him. However, we have terminated a contract by Kirinyaga Construction because he had taken so long to do a road. In fact, instead of delivering a job in three years, he has taken five years and he did only 58 per cent of the job.

Mr. Linturi: Mr. Deputy Speaker, Sir, the Minister has agreed that at times contracts take more time than expected. Our problem with the road that runs across my constituency, from a place called Kiringo North towards the National Park, the contract was given around ten years ago. To date, it has never been completed yet the Minister has confirmed that contracts have been cancelled. Could he confirm to this House and give the assurance that the Ministry will stick to contract guidelines and rules that relate to the period under which a contract is supposed to be completed? This will ensure that Kenyans do not continue suffering and dying on Kenyan roads that are full of potholes.

Mr. Kones: Mr. Deputy Speaker, Sir, that is exactly what I will do. I will make sure that if I award a contract to any contractor and they have not performed in time, we will terminate that contract. The contractors do not like it very much. In fact, they all go to court but we are going to insist on delivery of good standards and also in good time.

Mr. Nguyai: Mr. Deputy Speaker, Sir, I am surprised that the Minister normally gives a slap on the wrist and then re-awards contracts. The Minister says that he does not suspend contractors but he terminates the contracts. This basically means that you can have a contract, get it terminated for non-performance, and then proceed to get another contract. Could he kindly clarify?

Mr. Kones: Mr. Deputy Speaker, Sir, when we terminate a contract, we do not suspend that contractor. We will just terminate that particular project and not the contract as it were. He could be performing quite well in another contractor and so poorly in another.

Mr. Mbadi: Mr. Deputy Speaker, Sir, most of the Public Accounts Committee (PAC) Reports in Parliament recommend blacklisting of contractors. Why has the Ministry not taken the initiative to blacklist these contractors? What does it take for a Ministry to make a decision to blacklist a contractor?

Mr. Kones: Mr. Deputy Speaker, Sir, you will realise that blacklisting a contractor means that you have to totally destroy the career of that particular individual or company. Sometimes before we take that action, we have to consider so many things. One of the things that we do, first of all, we terminate that contract and see whether they will improve in other contracts.

Secondly, if they misbehave, it is when we move towards blacklisting them. Once a contractor has been terminated or blacklisted, they will never take any jobs anywhere else. So, I think, it is a way of trying to encourage these contractors to deliver instead of punishing them before we give them a chance to perform.

Mr. Jirongo: Mr. Deputy Speaker, Sir, the issue of non-performance of contractors emanates from registration of firms that are incapable of carrying out contracts. What is the Minister doing to ensure that before they categorise contractors, they have the technical and financial ability to undertake projects under the categories they are registered in?

Mr. Kones: Mr. Deputy Speaker, Sir, every year, we evaluate these contractors with a view to upgrading or downgrading them depending on what capacities they have. So, we do this evaluation every year. That is why we call up contractors to re-register with us all the time. So, to be a contractor, you need to be on the alert all the time so that you do not just assume that if you are Class A, you will continue being in that Class A all the time. If we feel that you are performing below capacity, then you get downgraded.

Mr. Lekuton: Mr. Deputy Speaker, Sir, other than the contracts of Kirinyaga Construction Company that the Minister specifically said they have been terminated, are there any other

contractors whose contracts have also been terminated?

Mr. Kones: Mr. Deputy Speaker, Sir, yes, we have also terminated Crescent Contractors and Kariuki Construction Company. At least, three have been terminated but on specific projects.

Mr. Ruto: Mr. Deputy Speaker, Sir, the Minister has told us that he has not blacklisted any of these contractors. We are all aware, and the information is available, that there have been cowboy contractors operating in the Ministry. Some of them are employees of his own Ministry. Is he telling us that all these fellows now have been allowed to come back and that he has opened a floodgate? Could he confirm whether this is what he said?

Mr. Deputy Speaker: Mr. Minister, in every field, whether it is accountancy, construction or engineering, there are certain ethics. What hon. Members want to know is that, when there is a flaw in those ethics, what is your position on that? Because even lawyers get suspended when they flout those ethics.

Mr. Kones: Mr. Deputy Speaker, Sir, currently, unfortunately, there is no law that regulates contractors. We have not brought to the House any law that regulates contractors. We are intending to do that in future. I think when we do that, that is when we will judge them according to the provisions of the relevant Act that will be passed by this Parliament. I want to assure this House that we are intending to bring a Bill that will regulate the performance of the contractors.

*(Messrs. Mututho and Ruto stood
up in their places)*

Mr. Deputy Speaker: Yes, Mr. Mututho!

Mr. Ruto, you will ask another supplementary question later, please!

Mr. Mututho: On a point Mr. Deputy Speaker, Sir, is the Minister in order to mislead the House that the contracts for Kirinyaga Construction Company have been terminated yet there is a court ruling which barred him from interfering with that? The facts, which are in the public domain, are that they varied terms of those contracts have been issued and they have no business interfering at this particular time!

Mr. Kones: Mr. Deputy Speaker, Sir, the fact that the contractor went to court does not nullify the fact that we terminated the contract. In fact, the court asked us not to terminate the contract but we had already done it. So, it is a battle in the court.

Mr. Deputy Speaker: Mr. Ruto, ask your supplementary question again!

Mr. Ruto: Mr. Deputy Speaker, Sir, I specifically asked the Minister to tell us about the contractors who are operating jointly with officers from his Ministry. On some contracts, the contractors are actually engineers from the Ministry of Roads. Could the Minister tell us clearly that he has weeded out these ones and that he is not opening a floodgate for the return of these cowboy contractors?

Mr. Kones: Mr. Deputy Speaker, Sir, we, definitely, do not entertain cowboy contractors in the Ministry. On the other hand, we also suspect that certain engineers within our Ministry are operating with certain contractors. They are doing it very secretly. I would be very grateful if the hon. Member would assist me by giving me a list of what he thinks and also support it with facts and figures, then I will take action.

Mr. Ruteere: Mr. Deputy Speaker, Sir, one of the roads affected by these contractors who have been terminated is the Meru-Isiolo Road, which has taken more than six years to construct. I would like the Minister to tell us whether it is going to take more time in getting us another contractor for that road.

Mr. Deputy Speaker: Mr. Minister, did you hear the question?

Mr. Kones: Not at all, Mr. Deputy Speaker, Sir. In fact---

Mr. Deputy Speaker: Mr. Ruteere, could you repeat your question and get closer to the microphone?

Mr. Ruteere: Mr. Deputy Speaker, Sir, the Ruire-Isiolo Road has taken more than six years to construct and this contract has been terminated. Could the Minister assure us that this road will not take much longer to get another contractor on site?

Mr. Kones: Mr. Deputy Speaker, Sir, the problem is that the matter is in court. In the meantime, that same contractor whom we terminated is continuing working there. So, I do not see how we can move in there when the court has interfered with the project.

Mr. Linturi: Mr. Deputy Speaker, Sir, my question to the Minister is that even before the Ministry moves ahead to construct the headquarters for the new districts that were created last year, could the Ministry consider constructing district headquarters, and is he aware that there is a cartel that involves the senior officers in his Ministry that goes down to the headquarters, to the districts and to the provinces? When these contracts are given out and there are delays in giving out something small, you will find that work does not move as fast as is required, because one or two things have not been complied with. I will give an example: The road from Maua to Meru was allocated money for repair of a section called Ntinyanga. I have confirmed with the Ministry that the money was given out. Today, I have even spoken to the Provincial Roads Engineer in Embu. He has not released money, so that the road can be done. I have spoken to the District Roads Engineer in my district. In another one month the Meru-Maua areas will be cut off. We cannot understand what is happening. Could the Minister explain to the House what is happening?

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Overruled, Mr. Keter!

Mr. Minister, could you answer the question?

Mr. Kones: Mr. Deputy Speaker, Sir, unfortunately, that is a very specific Question and I did not come with the answer to that. I would be very grateful if the hon. Member would ask that Question. I will answer him accordingly, or I will invite him to my office, and then we could go through those records. Otherwise, I do not want to give inaccurate information on that issue.

Mr. Namwamba: Mr. Deputy Speaker, Sir, I would like to know from the Minister whether there is a system established by the Ministry for auditing ongoing projects on the basis of which decisions on termination and blacklisting are taken. I got a little concerned when the Minister said that some of those issues cannot be effectively dealt with until legislation comes to this House. I do believe that the Ministry has some administrative mechanisms through which some of those issues could be tackled. Would I be in order to request the Minister to, perhaps, table before this House a comprehensive report of audit of all major construction works that are currently going on, so that this House could be effectively informed on the status of those projects in terms of their implementation and make a decision accordingly? My constituency runs the risk of being completely cut off from the rest of the country. For those who do not know, Budalang'i is the last frontier of Kenya in that direction.

Mr. Deputy Speaker: Ask your question, Mr. Namwamba!

Mr. Namwamba: Mr. Deputy Speaker, Sir, I am in the process of asking the question. I have actually asked the question but I am just amplifying it. I would want the Minister to tell me from that audit, when I can expect that road leading to Budalang'i to be completed.

The Assistant Minister for Energy (Mr. Keter): On a point of order, Mr. Deputy Speaker, Sir. I would like to seek clarification from the Chair as to whether the rules of the House have been changed. Mr. Linturi asked a question from this side of the House and moved to the other side and asked a question again to the same Ministry. I would like to seek your guidance and clarification on

that.

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

Mr. Namwamba: On a point of order, Mr. Deputy Speaker, Sir. The obvious is never clarified. It is on record that the Chair has previously ruled that we are at liberty to float across the House and sit on either side of the House. That is a point of order that does not deserve a ruling from the Chair, because it has already been dealt with.

Mr. Deputy Speaker: Order, Mr. Namwamba! You do not decide whether it deserves a ruling from the Chair. It is the Chair that decides that.

Proceed, Mr. Minister and answer the question!

Mr. Kones: Mr. Deputy Speaker, Sir, I remember that the hon. Member has asked three questions in a row. That is also out of order, but I will attempt to answer. We have an Audit Department in the Ministry that carries out audit of various projects pertaining to the road networks. That is actually the department that assists us by giving us information as to when and how we are going to determine the performance of a contractor on site. So, we do an audit.

Secondly, the hon. Member asked whether we are going to carry out reforms even before we pass the legislation; we are, indeed, trying to do that. We are saying that for us to be able to have the teeth to bite, we need a legislation in this House that regulates the performance of contractors. We are going to bring here that legislation soon.

Thirdly, he asked about a road in his constituency. That is a totally different Question. Probably, he has to bring that Question here and I will answer him accordingly.

Mr. Jirongo: Mr. Deputy Speaker, Sir, the Minister seems to be aware that his Ministry does not have any legislation that regulates the conduct of contractors. Could he tell this House, specifically, when he will bring a law that will regulate the contractors?

Mr. Kones: Mr. Deputy Speaker, Sir, to bring a law here, we need to involve all the stakeholders. In fact, we are going to hold a workshop within this year to inform them that we are bringing to the House that Bill, so that we can have their input for it to be all-inclusive when it comes here.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I come from a party called ODM(K), and before the party was swallowed by the PNU, we were talking about a 24-hour economy. Is it possible for the contractors to be working for 24 hours and---

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. C. Kilonzo to imply that ODM(K), which is a party with 18 Members of Parliament, the third largest party in this House, has been swallowed by the PNU? Is he in order?

Mr. Deputy Speaker: Proceed with your question, Mr. C. Kilonzo!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, that is obvious. I do not need to confirm the obvious. The Chairman is here. He has even said that he is not fielding any candidates for the by-elections, but he is instead supporting the PNU.

Back to my question---

Mr. Deputy Speaker: Order, Mr. C. Kilonzo! Mr. Poghio is on a point order!

The Minister for Information and Communications (Mr. Poghio): On a point of order, Mr. Deputy Speaker, Sir. You notice that, that is almost history in the making or repeating itself. That is a stage-managed point of order.

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

Mr. Deputy Speaker: Order, Mr. Namwamba! The Minister is on a point order! You cannot have a point of order on a point order!

Proceed, Mr. Minister! What is your point of order? What is not in order?

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy

Speaker, Sir, I think we need to have a very short leash on Mr. Namwamba. My point of order is---

Mr. Deputy Speaker: Order, Mr. Poghio! Mr. Minister, that is not Parliamentary language. You cannot have a short leash on an hon. Member. Hon. Members are doing their job. He is not a domestic animal! Withdraw that comment!

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, I do not know whether it is the word "leash" that is unparliamentary---

Mr. Deputy Speaker: Mr. Minister, withdraw that comment!

The Minister for Information and Communications (Mr. Poghio): If it is the word "leash" then I withdraw it.

Mr. Deputy Speaker: Now proceed with your point of order!

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, is it in order for the hon. Members of Parliament to obviously stage-manage what looks like a point of order in order to impute impropriety and improper motive on a very significant political party in this country?

Mr. Deputy Speaker: Mr. C. Kilonzo, proceed with your previous supplementary question!

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, it is obvious that he is stage-managing the party. My question is very simple: This party called ODM(K) was talking of a 24-hour economy. So, I am asking, could all the contractors engaged in contracts be working for 24 hours? In Nairobi, when we go to sleep, the contractors also go to sleep, and when we come in the morning they also come. So, it is a total mess. Traffic jams in the city are a mess. So, could the contractors work for 24 hours?

The Minister of State for Defence (Mr. M.Y. Haji): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order to disown ODM(K), which brought him here?

Mr. Deputy Speaker: Mr. Minister, the issue is on roads! You are out of order! Proceed, Mr. Kones!

Mr. Kones: Mr. Deputy Speaker, Sir, actually, you will realise that our road network in this country is still in a very poor state. I think that nearly 50 per cent of our roads are in a very poor state. We have also said that we have a shortage of contractors, but if we could give them more time so that they work round the clock, we would be actually doing what this country expects us to do. In developed countries, actually construction of roads goes on throughout the day and the night. We are moving towards that direction.

COMMUNICATION FROM THE CHAIR

BACK-BENCHERS SHOULD TAKE UP RESPONSIBILITY OF ASKING QUESTIONS

Mr. Deputy Speaker: Hon. Members, before we proceed to the next Order, I notice with pity and it is there for everybody to see, that we have only one Question this morning on the Order Paper. Questions are very important and integral part of the Business of this House. The Ministers and Assistant Ministers are not allowed to put in Questions. The Backbenchers will be doing a service to this country and to the business of the House, if they take their own responsibilities with a lot of seriousness and have sufficient business in the form of Questions for the House to transact.

POINTS OF ORDER

MEASURES TO CURB RISING COST OF FUEL

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir. I rise on a point of order to request a Ministerial Statement from the Minister for Energy regarding the escalating price of petrol. It is very clear that all sectors of the economy are, to a large extent, controlled and managed by petrol.

Mr. Deputy Speaker, Sir, in seeking this Ministerial Statement, I would want the Minister to tell this House the cost of fuel in this country, the international price of fuel per barrel and how much the Government taxes fuel which is coming into this country. I would also want to know whether the Government has liberalised the sale of fuel or it is still controlled by the Government. Kenyans can no longer afford to drive or use any machines due to the rising cost of fuel. I would like to know what the Government is doing to ensure that it cushions its members from arbitrary escalating prices of fuel. I would also want to know whether there are alternative sources of energy for Kenyans to use to avoid using a lot of money on fuel.

Thank you.

The Assistant Minister for Energy (Mr. Keter): Mr. Deputy Speaker, Sir, we will give the Ministerial Statement on Tuesday next week.

Dr. Eseli: Mr. Deputy Speaker, Sir, I wish to seek your guidance, because, in your address, you have said that most likely we, Back-benchers, are not fielding enough Questions. As we sit here, and my colleagues will support this, we have many Questions pending. I think it is the House Business Committee which does not ballot Questions---

Mr. Speaker: Order, hon. Member! Order! We have only 40 Questions in the conveyor belt. When the Questions are asked, they go through the Clerk and come to my office. We have 132 Back-benchers in the House against 40 Questions. That is a very dismal performance. The Members need to put more Questions unless they feel that everything is going right and the Government is doing its business right. If that is so, it will be a different business. So, this is the position.

ISSUANCE OF TWO SETS OF PROSPECTUSES
ON SALE OF SAFARICOM SHARES

Mr. Mbadi: Mr. Deputy Speaker, Sir, I am asking for a Ministerial Statement from the Ministry of Finance. The Question is with regard to---

Mr. Deputy Speaker: Hon. Mbadi, if it is a Question, you put in a Question. If it is a Ministerial Statement, you have to indicate the circumstances under which you want that Ministerial Statement.

Mr. Deputy Speaker: Proceed!

Mr. Mbadi: Mr. Deputy Speaker, Sir, I am seeking a Ministerial Statement in light of the recent sale of Safaricom shares. There are revelations that the Capital Markets Authority allowed Safaricom to issue two sets of prospectus; one on 14th March and the other on 28th March, which are materially different. I would like the Minister to explain the circumstances under which these two prospectus were issued and why the Capital Markets Authority allowed the first prospectus which did not have the signatures of the external auditors, the signatures of directors and also notes to the Accounts were not attached to it, to be used.

Mr. Deputy Speaker: Is the Minister for Finance or the Leader of Government business or any Minister here?

The Minister for Information and Communications (Mr. Poghiso): Mr. Deputy Speaker, Sir, I would forward the same to the Minister for Finance and I hope the Statement will be brought to the House early next week.

Mr. Koech: Mr. Deputy Speaker, Sir, I rise on a point of order to ask the Ministry of Education this Question.

Mr. Deputy Speaker: Order! Order! If it is a Question, you put in a Question through the process. If it is a Ministerial Statement, the tradition is that you should clear it with the Speaker before raising it. I do not remember meeting you, hon. Koech, unless you talked to the Speaker.

(Mr. Okemo stood up in his place)

Hon. Okemo, I presume you are seeking a Ministerial Statement.

Mr. Okemo: No, Mr. Deputy Speaker, Sir. I wish to seek your guidance on the issue of Questions asked by the Back-benchers. You said that there are 40 Questions in the conveyor belt, but there is only one Question on the Order Paper this morning. I do not know what has happened to the other 39 Questions, in all fairness to the Opposition.

Mr. Deputy Speaker: Order! The Clerk's Department needs ample time to process the Questions and take them to the relevant Ministries to respond. Then the Questions would be put on the Order Paper. But most of the 40 Questions are fairly late but they are still in the conveyor belt. They are going through the system. But hon. Back-benchers, I remember during our time in the Seventh Parliament, the Clerk's Department and the House Business Committee used to have a hard time balloting these Questions because there were hundreds of Questions. Why we should talk of only 40 Questions shows you that there is some of form of a dismal performance. I can understand this in the initial days of the House because nobody knew whether he was going to become a Cabinet Minister or an Assistant Minister. But now that, that is settled, the Back-benchers need to take their business seriously.

MEDDLING IN KENYA'S
INTERNAL AFFAIRS
BY FOREIGN ENVOYS

Mr. Namwamba: Mr. Deputy Speaker, Sir, I rise on a point of order to seek a Ministerial Statement from the Minister for Foreign Affairs. Is the Government aware that there are number of foreign envoys accredited to this country, whose conduct and public utterances threatened to erode the sovereignty of the Republic of Kenya? Specifically, I want the Minister to tell this House what the Government is doing to ensure that envoys, like the US Ambassador to Kenya, His Excellency Michael Rannebeger, stop posturing as prefects, monitors, overseers and governor-generals over the affairs of the Republic of Kenya.

Mr. Deputy Speaker, Sir, I raise this issue in the context of the Geneva Convention that governs diplomatic etiquette and conduct of relations among nations. While, as a nation, we would want to maintain robust and friendly relations with our international friends and partners, those relations must be based on mutual respect and operate strictly within the framework of the Geneva Conventions on diplomatic relations.

The Minister for Information and Communications (Mr. Poghio): Mr. Deputy Speaker, Sir, I take the request for the statement. I hope that you will also give us guidance if that issue is not touching on relations with friendly countries. But if it is okay, we will bring the Statement next week.

Mr. Deputy Speaker: Order, hon. Members! Standing Order No.73(1) states:-

"Neither the personal conduct of the President nor any conduct of Mr. Speaker, or of any Judge nor the judicial conduct of any other person performing judicial functions nor any conduct of a ruler of the Government or the representative in

Kenya of any friendly country shall be referred to adversely, except upon a specific substantive Motion moved for that purpose."

Hon. Members, whereas your sentiments are valid in many ways, because representatives of other Governments are not supposed to meddle in the internal affairs of the host country, and it is common knowledge that some envoys take it upon themselves the liberty of interfering in our internal affairs, under the Standing Orders right now, you can only bring a substantive Motion to discuss the conduct of that particular Ambassador.

Thank you.

Mr. Ruto: Thank you, Mr. Deputy Speaker, Sir. We have just received an undertaking of receiving that Ministerial Statement from the Minister in charge of Safaricom.

Mr. Deputy Speaker: Order! That is an insult!

(Laughter)

The Minister regulates Safaricom Limited. He is not in charge of Safaricom.

Mr. Ruto: My apologies, Mr. Deputy Speaker, Sir. I also know that he is the Deputy to the Vice-President and Minister for Home Affairs. Does that give him the protocol to become the Deputy Leader of Government Business? I do not know under what circumstances he is giving this---

Mr. Deputy Speaker: Order! Order! Any Minister can represent the Leader of Government Business in the House in the event of his absence or the absence of his deputy.

The Minister for Information and Communications (Mr. Poghiso): On a point of order, Mr. Deputy Speaker, Sir. Mr. Ruto should not be allowed to get away with misleading the House. Is he in order to mislead the House that I am the deputy to the Vice-President and Minister for Home Affairs?

Is he also allowed to mislead the House that I am in charge of Safaricom, although you have answered him on that one? Being a very experienced Member of this House is he allowed to get away with it?

Mr. Deputy Speaker: Order! The hon. Minister is the Deputy to Mr. Stephen Kalonzo Musyoka in a party called ODM(K) but he is not the Deputy to the Vice-President and Minister for Home Affairs. The deputy to the Vice-President and Minister for Home Affairs is not Mr. Poghiso. That is out of order! There is no such thing as the "Deputy Vice-President!"

Mr. C. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. It appears today, that the House which you Chair has decided to give the position of the Leader of Government Business on the Opposition Benches to one Ababu Namwamba, according to the Order Paper. So, would I be in order to ask Mr. Namwamba to sit where he belongs?

Mr. Deputy Speaker: Order! Order, hon. Member! We have not started discussing Motions. However, the person who will respond to the Motion is the Leader of Government Business. This is a matter of statutes. You are totally out of order!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I really appreciate your ruling on the matter that was before the House. However, I am seeking a clarification---

(Loud consultations)

You must protect me from one heckler called Mr. Keter!

Mr. Deputy Speaker: Order! Order! Mr. K. Kilonzo, withdraw that and apologise immediately! There is no heckler in Parliament. We are all hon. Members of Parliament!

Mr. K. Kilonzo: Mr. Deputy Speaker Sir, I withdraw and apologise. However, I also want you to protect me from Mr. Keter.

Mr. Deputy Speaker: It is the duty of the Chair to protect every hon. Member!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, moving on to the issue at hand, I just needed your clarification because soon, and very soon, hon. Members will bring issues on matters touching on countries which are undermining or interfering with the integrity or the sovereignty of our country. Could we get your guidance on the so-called "friendly" and "unfriendly" so that we can know when to discuss the unfriendly countries and the ones that are friendly? The rate at which things are going, it is hard to know, truly, which countries are friendly. Those which were friendly, nowadays happen to be unfriendly to Kenya.

Mr. Deputy Speaker: Hon. Members, the House has a perfect legitimacy and a right to discuss matters touching on the sovereignty of this country, the conduct of envoys or even Presidents of other countries but only through a Substantive Motion. Should you want to discuss that, bring in a Substantive Motion and seek leave of the Chair to discuss it.

Next Order!

Sorry, the hon. Member also wanted to know the difference between a "friendly" country and an "unfriendly" country. As far as we are concerned, every country in the world is friendly, unless there is belligerence. Kenya does not have belligerence with any country. All countries that have accredited envoys in Kenya are considered friendly countries to us. I hope that answers your question.

Proceed, Mr. Wamalwa!

MOTIONS

RESOLUTION TO WRITE OFF AFC AND ADC LOANS

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, in view of the devastating effects that post 2007 election crisis had on farmers particularly in the Rift Valley Province and other affected areas; aware that many farmers' capacity to service AFC and ADC loans have been severely affected by these situation and are unable to access further financial support from these institutions in order to develop their farms and enhance production; acknowledging that agriculture still remains the backbone of our economy and that our national food security is threatened by the crisis; conscious of the necessity to empower farmers so as to enhance production in view of the impending global food crisis; this House resolves that the Government writes-off all AFC and ADC loans owing to the said institutions by farmers in the Rift Valley Province and other areas affected by the post 2007 election violence.

Mr. Deputy Speaker, Sir, this country has just come out of an unprecedented national crisis. When the ties that bind this nation were stretched to breaking point, the people who bore the brunt of this crisis were, indeed, farmers. The Rift Valley, that is the bread basket of this country, bore the brunt of the crisis. As a result of the violence, over 1,200 Kenyans lost their lives, and over 350,000 Kenyans were displaced. Many of them were farmers, and many of them lost their crops that were in the stores. About 3.5 million bags of maize were burnt and destroyed during this violence.

Mr. Deputy Speaker, Sir, as a result of insecurity and violence in the country, many farmers were unable to access their farms. Those who were able to access their farms were at the same time

unable to plant, because of the high fertiliser and seed prices. We had a situation where fertiliser prices doubled from Kshs1,850 last year to about Kshs4,000. The cost of ploughing also doubled from Kshs1,200 to about Kshs2,000.

As a result of this, many farmers were unable to plant this year. Many farmers, who were able to access their farms, planted less acreage than they normally do. Many farmers could not afford the certified seeds or fertiliser. Therefore, many resorted to planting without using fertiliser. As a result, farmers' crops have not done well. Germination is evidently poor. There is poor crop population, hence there is going to be poor yields.

Mr. Deputy Speaker, Sir, this will translate into a very serious food deficit in this nation. As we look at the situation in the country, we realise that this year, Kenya will be unable, because of this situation, to realise its full potential in agriculture. Indeed, experts indicate that only about 60 per cent of that potential might be realised this year.

Mr. Deputy Speaker, Sir, the farming situation in the country is very bad, because farmers were unable to be assisted by the Government in stabilising the fertiliser prices. We have a situation where the Government must now, after failing to intervene by subsidising fertiliser and cushioning farmers against adverse effects, as a matter of urgency, look at other interventions in order to help the farmers.

Mr. Deputy Speaker, Sir, the crisis is evident. It is a national crisis. It is not only national, but is also global crisis. We have seen indications of food shortage in other countries, not only on the African continent but also beyond. We have seen food riots in Egypt. There have been food riots in Senegal. Yesterday, I watched on national television, food riots in a neighbouring country's capital, Mogadishu. This indicates that the situation is getting worse and Kenya will not be spared.

Mr. Deputy Speaker, Sir, in view of this crisis, other countries have moved to put in place emergency measures in order to combat the situation facing them. I was pleased to read in the *Daily Nation* of 2nd May, a statement by the World Bank President Mr. Lobert Zoleck. He is coming up with a new deal. It is an initiative to double lending to agricultural countries in order to help poor farmers access credit to enhance productivity.

Mr. Deputy Speaker, Sir, in Senegal, the President has come up with a new initiative that he has called GOANA. That stands for "Great Offensive for Food and Abundance". This is an African nation that has seen the crisis situation coming ahead of it and has moved to enhance production by starting programmes that will bring about a green revolution in the sub-saharan Africa. The food offensive that the Senegalese President has put in place is, indeed, meant to help the Senegalese farmer to produce more by accessing affordable credit.

Mr. Deputy Speaker, Sir, the Kenyan situation is no different. I am very pleased to say that yesterday we witnessed the launching of a new initiative by the Government that is now aggressively courting the private sector to intervene by availing accessible and affordable credit. This initiative is called "*Kilimo Biashara*". It is a partnership between the Alliance for Green Revolution in Africa (AGRA), IFAD and the Equity Bank. Kshs3.2 billion credit facility has been availed to small scale farmers in Kenya. Indeed, it is a good development and gives Kenyans hope. However, as we speak, the Kenyan farmer has not only been afflicted by violence, but is also burdened by debts. Many of them are unable to access more credit, because they are already indebted to institutions like the AFC and the ADC. As a result, their title deeds have been held as collateral or security by these institutions.

Mr. Deputy Speaker, Sir, even with the new initiative no more small-scale Kenyan farmer may enjoy the new facilities, unless the Government first intervenes to ensure that the burden that the Kenyan farmer is bearing is reduced through a write-off of these loans. This will give the Kenyan farmer relief and enable him to recover from the situation facing this country.

Mr. Deputy Speaker, Sir, I was very pleased to note that there has been an initiative, where

Kshs60 million was set aside to start a sensitisation campaign against tuberculosis. This was launched by the Government yesterday. However, we are praying that the Government will initiate a similar programme, where, after writing off AFC and ADC debts, through extension officers, the Government will reach the ordinary farmers on the farms to encourage them access this affordable credit. It should encourage the farmer on his farm to grow more than he or she already has in order that Kenya may enhance productivity in agriculture.

Mr. Deputy Speaker, Sir, I am advised that already Kshs148 million has been set aside for this purpose. However, we are praying that, as we talk of assisting the Internally Displaced persons (IDPs), who are mainly farmers, we must start by first relieving them of the heavy burden of the debt that they are already carrying.

Mr. Deputy Speaker, Sir, it is in this spirit that I am proposing that the Government considers writing off AFC and ADC loans. After this, the Government should consider injecting more funds into these institutions, so that they can enhance their capacity to re-lend to the farmers. It is, indeed, a good initiative through Equity Bank. However, many farmers have been more at home with the AFC. These are the traditional institutions that have helped farmers grow over the years. It would be a good thing if the Government injected more funds to farmers through the institutions.

Mr. Deputy Speaker, Sir, it is not the first time that this is happening. There have been similar situations in the past when Kenya was faced with drought. In 1994 there was a write-off of AFC loans to farmers. This was done as a result of a directive by the Government. This was when we had the *El Nino* and the *La Nina*, and farmers were greatly relieved.

Mr. Deputy Speaker, Sir, in 2002, through Sessional Paper No.1, the Government, again, wrote off seasonal credit loans owed by farmers to the AFC. This had a major impact in not only giving farmers the relief, but also enhancing productivity. The Government has also in the past intervened, like it did in 1989, by writing off the Kenya Meat Commission (KMC) loans amounting to over Kshs1 billion. In 2003, through Sessional Paper No.2, the Government also wrote off KMC loans amounting to Kshs3.2 billion. The Government has also intervened in the past in the coffee sector by writing off debts in order to give relief to coffee farmers. The entire lending portfolio of the Agricultural Finance Corporation (AFC), I am advised, is about Kshs4 billion. So, what we are asking for is something that the Government has done before and, therefore, is able to do so. We are urging that this be done in the interest of enhancing productivity and empowering the Kenyan farmer to be able to produce more. Indeed, agriculture remains the backbone of the economy. Almost 80 per cent of the Kenyan society depends on agriculture. Unlike in Europe and America where the farmer is protected and cushioned by the Government through subsidies, the Kenyan farmer has been exposed to the vagaries of weather and the unstable fertilizer market, which is subject to international petroleum prices that are always fluctuating.

Mr. Deputy Speaker, Sir, the agricultural sector in Kenya requires a lot of money. However, what has been availed to farmers through the AFC is just Kshs4 billion. Clearly, this is not enough to help the farmer access enough credit and put more money in his pocket, so that he can produce more. Indeed, we were in a real crisis which affected all farmers. As I speak now, we have many farmers living in the Internally Displaced Persons (IDPs) camps. I am happy because the Government is in the process of resettling them. We are glad that the Government has taken the initiative in the so-called "Operation *Rudi Nyumbani*" in resettling these farmers. But as the farmers go back, they will need an extra relief. We are urging that this be done through writing off their previous loans and freeing them to access further credit, so that they can produce more. In fact, we are urging that after the "Operation *Rudi Nyumbani*", perhaps, the Government should come up with a new "Operation *Rudi Mashambani*," so that they can go back to their farms. With extra money in their pockets, I am sure, they can produce more food.

The season for planting maize has ended. But we have the season for planting wheat coming up. With proper financing, initiatives and incentives, the farmers can be empowered to grow more wheat, potatoes, rice, beans, millet and sorghum, like they are doing in Senegal. These are the initiatives we are urging that the Government starts, so that the Kenyan farmer can be empowered.

Mr. Deputy Speaker, Sir, this morning I listened to a Sudanese saying, that when your neighbour is hungry, your chicken are not safe. If this nation does not rise up now and produce more food, there will be a food crisis because what we have in our farms is not enough. If you had occasion to travel from Nairobi all the way to Kitale by road, you would be surprised to see that many farms are lying fallow. The food that we normally grow has not been grown this year. Something needs to be done urgently to empower the farmers to grow.

It is in this spirit that I am urging that all Members do support this Motion, so that we can save the Kenyan farmers and ensure national food security for all in this nation. We are urging all Members, in supporting this Motion, in the words of Prophet Isaiah, to undo the heavy burden and let the oppressed go free.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move the Motion and ask my friend, hon. Koeh, to second.

Mr. Koeh: Thank you, Mr. Deputy Speaker, Sir. I rise to second this very important Motion which deals very seriously with the Kenyan situation today and tomorrow in terms of food reserves.

Mr. Deputy Speaker, Sir, we, as Kenyans, today feel threatened by the food reserves in our country. What we have in stores may not go up to the end of the year. What is in the farms today is nothing to wait for. We have come from serious devastating effects of post-election violence. As a result of that, there are very few farmers who prepared their land. At this juncture, I would like to sincerely thank the Government, through the Ministry of Agriculture, for providing some seed, fertilizers and even assisting in ploughing farms for some farmers. This was a good initiative although very few farmers benefitted.

Most farmers, mainly from Rift Valley Province, were also rendered IDPs. The process of returning them home is ongoing, meaning that they have not even started thinking of preparing their farms. So, we are talking about Kenyans who rely on the produce from the farms, yet, nothing is going on, on those farms at the moment.

Most of our farmers, apart from the ones who were in IDPs camps, felt insecure in the first three months of this year. Even those who wanted to do farming could not even move to the major towns for fear of being arrested. As a result, most of our farmers, for sure, did not do much. Hon. Members, when you move across the country you can realise what I am talking about. Farms are lying fallow.

Mr. Deputy Speaker, Sir, at the moment, we are talking about a country where no major economic activities are taking place. No economic activities going on on our farms. Apart from the devastating effects of post-election violence, we are aware that our farmers, again, have been put at crossroads as a result of the escalating prices of farm inputs. To plough one acre of land, one needs Kshs2,000. It has gone up from Kshs1,200. The cost of fertilizer has gone up to Kshs4,000. Most of us here are farmers, if you calculate the profit margin realised per acre after use the correct fertilizer and seed, and plough the number of times required, it is approximately Kshs4,000. If you divide that by 12 months, we are talking of a farmer making a profit of Kshs300 per month. He is supposed to use that money to feed and educate members of his family.

Mr. Deputy Speaker, Sir, there is need for the Government to cushion the farmers, so that, for sure, farming can be profitable to them. At the end, we are talking about a farmer who has loans, yet he earns a profit of Kshs4,000 per acre. The said farmer cannot pay back the loan.

The price of farm inputs is affecting the farmers of this country very negatively. The real farmers who understand the economics of farming are running away from it. It is high time the Government took the initiative to cushion them.

Mr. Deputy Speaker, Sir, as speak, again, the weather has not been very good for this country. The heavy rains that we expected to come during March and April were not enough to warrant high yields from our farms. In some parts of this country, even if the farmers had anything to do, for sure, they could not plant because of the drought that they are experiencing. So, we do not expect much from those who have been able to plant as a result of low rains in the country.

Mr. Deputy Speaker, Sir, we are asking that the loans owed by the farmers to the Agricultural Finance Corporation (AFC) and the Agricultural Development Corporation (ADC) be written off. We are not asking for something that has not happened in this country. It has happened before and it has made farmers happy. This is the right time to also make our farmers start smiling from this House. We are requesting that after waiving or writing off the loans, there is also need to empower the AFC and ADC to enable farmers access more loans for future investment.

Mr. Deputy Speaker, Sir, we applaud the "Kilimo-Biashara initiative which is going on now in this country. I would like to thank Equity Bank for offering to perform this very noble duty. As we speak, we are aware that most of our farmers still fear going to banks for loans. It will be prudent for the Ministry of Agriculture to be fully in charge of any loans offered to farmers so that it will be easier for the said loans to be recovered as the farmers deliver their produce. So, we would wish that the Ministry of Agriculture takes full charge of this process.

Mr. Deputy Speaker, Sir, while the farmers are now going to get the said loans through Equity Bank, we are wondering - and I would like to wonder aloud - whether it is the Ministry of Agriculture or the Ministry of Finance which will be fully in charge of the said process.

Mr. Deputy Speaker, Sir, and hon. Members, this is the opportune time to really save the farmers of this country; the people on whom we rely for the future survival of this country. The best thing that we can do is for all of us to rise up and support this very, very noble Motion.

Mr. Deputy Speaker, Sir, may I ask all hon. Members to support this Motion which will empower our farmers.

Thank you, Mr. Deputy Speaker, Sir.

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

(Question proposed)

Mr. Deputy Speaker: Proceed, hon. "Mbai!"

Mr. Mbadi: Thank you very much, Mr. Deputy Speaker, Sir. I just wanted to correct that my name is hon. Mbadi. So, you left out letter "d".

Mr. Deputy Speaker, Sir, I support the Motion and after supporting it, I want to move an amendment on the same. But I support the Motion given that we know the devastating effects that the post-election violence had in this country, especially in the Rift Valley Province, which was most affected and most farmers had to leave their farms. Now, they have just gone back to their farms at a time when the rains have stopped.

Mr. Deputy Speaker, Sir, allow me to, first, move the amendment to the Motion and then, I hope, I will be allowed to contribute immediately thereafter.

Mr. Deputy Speaker, Sir, I beg to move that the Motion be amended as follows:-

(i) By inserting the words "severe drought and" immediately after the word "that" in the first line.

(ii) By deleting the fullstop at the end and inserting the words "and severe drought" in place thereof.

The reason why I am moving these amendments is because---

The Minister for Information and Communications (Mr. Poghiso): Mr. Deputy Speaker, Sir, if you heard the hon. Member clearly when moving his amendments, he says we should insert the word "severe drought" after the word "that" on the first line. That will not really enhance its magnitude.

Mr. Mbadi: Thank you, Mr. Deputy Speaker, Sir. Probably, I need to read the lines so that the hon. Member can understand what I am trying to move. The amended Motion should read:-

"THAT, in view of the devastating effects that severe drought and the post-2007 election crisis had on farmers--"

The words "severe drought and"-- I am sorry, I left out the word "and". These words should be added immediately after the word "that" in the first line. Then, on my second amendment, I think there is no contention on that one.

Mr. Deputy Speaker: Proceed!

Mr. Mbadi: Thank you, Mr. Deputy Speaker, Sir. The reason why I am moving these amendments is because apart from the post 2007 crisis, there are some areas in this country that were hard-hit with drought. There are so many areas like North Eastern, parts of Coast Province and other Arid and Semi-Arid Lands (ASALs) that were hard-hit by drought, and the farmers took loans from the AFC and the ADC. These farmers will not be able to service their loans because the yields will not be as they expected. So, I request the House to consider amending this Motion to incorporate those areas that were affected by drought.

Thank you very much Mr. Deputy Speaker, Sir.

I beg to move the amendment.

Mr. Deputy Speaker: Do we have a Seconder for the proposed amendments to the Motion?

Prof. Kaloki: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. Indeed, we have to amend the Motion to be able to include other areas in the country because also in Eastern and Central provinces, farmers were also affected--

I beg to--

Mr. Deputy Speaker: Order! Order, Prof. Kaloki! Are you seconding the proposed amendments to the Motion?

Prof. Kaloki: Mr. Deputy Speaker, Sir, I beg to second the amendments.

Thank you, Mr. Deputy Speaker, Sir.

(Question of the first part of the amendment, that the word to be left out be left out, proposed)

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this very important Motion and to congratulate the Mover for bringing it. I would also like to support the amendment by Mr. Mbadi because the problem in this country has not just been post-election violence, but also the drought that has affected many parts of this country.

In this regard, therefore, I think we also need to go beyond just talking about drought, ethnic violence and so on. This is because the problems facing our farmers have been there. Although they may not have been severe as they have been this year, these problems have been there. Therefore, it is important that we also think of alternative means of livelihood for our people. In this regard, I would like to congratulate the Grand Coalition Government for coming up with the Ministry of Development of Northern Kenya and other Arid Lands. This is because Kenya

continues to have only one side that is arable. There is a lot of land that is not being exploited yet that could be done if we had the right focus. Many examples have been given of countries that are drier than the northern part of Kenya. For example, Israel, Egypt and so on. I hope, therefore, that the Ministry of Development of Northern Kenya and other Arid Lands will address those issues to ensure that we harness the potential that we have not exploited from that part of this country.

Mr. Deputy Speaker, Sir, we also need to think of other ways of diversifying the means of income. In this regard, I think we still have not done enough in industry. Since we now have the Ministry of Industrialization, there is going to be much more emphasis placed in terms of what it is that we can do to ensure that we have industries across the country and not just in a specific part of the country so that many of our young people do not think that the only way to survive is to have a small piece of land in some place in the Rift Valley Province or Meru. They need to know that there are other opportunities.

It is important for us to address the issues of the poor people of this country just as it is important to address the issues of social inequality. A lot of the poor people, like we have said before, are exploited by people of means; people who are very well off, including politicians who are doing very well. We have far too many poor people and the gap between the rich and the poor has been growing since Independence. Instead of it reducing, as we expected, it has been widening. We should go back to the basics and ask ourselves why that has been the case.

One area that has been a problem is education. Indeed, education in this country has continued to intensify the gap between the rich and the poor. Even opportunities that were available for poor peasants and workers to move through the system are now almost closed with the coming of academies and private tutoring. It is the children of people like us who can access the best education and, therefore, the best jobs. We need to address that. As long as we have a country whereby the majority of children who go to the best schools come from, say, 10 per cent of the population and the majority who do the best degree programmes in our universities, like Engineering, Medicine and so on, come from a countable number of the population, then that is trouble.

Mr. Deputy Speaker, Sir, what is happening is that you are refusing opportunities for the poor to be upwardly mobile in other ways so that everybody thinks that only primitive accumulation and farming on small portions of land will make a difference. So, that issue has to be addressed. We have to address the wider context of inequality. It is not just about ethnic clashes.

Mr. Deputy Speaker, Sir, we also have to look at issues about unemployment. Here again, is a major issue of inequality. Who is getting good jobs in this country? Are they the young people who go through public institutions and go to the public universities or those who go to the private universities with lesser qualifications? They will go to India or private universities in this country, but still get the best jobs because they are well-connected. Their parents are doing well and so they can get them jobs. Again, that is an issue of inequality. We must find a way whereby even the poor can access good jobs so that you do not have to belong to a certain family in order for you to get employment. This remains a big problem.

Mr. Deputy Speaker, Sir, also related to the wider issue about inequality, is the whole issue of land ownership. We have been talking about ethnic clashes and people who do not own even one-tenth of the mass of this country. It is a very small proportion we are talking about. What is happening to the rest of the land, a lot of which is owned by absentee landlords and people who appropriated ADC farms and so on? There is a lot of land that we can still redistribute to ensure that everybody does not get crowded in the Rift Valley Province and that the same province does not become the basis for ethnic contest. This is because there is a lot of other land that we are not paying attention to in terms of redistributing it to our people.

(Applause)

Mr. Deputy Speaker: Order, Dr. Mwiria! I appreciate your sentiments, but I do not see how that is relevant to the amendment to the Motion. You are supposed to be debating the amendment to the Motion.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I am debating the Motion and it includes the amendment.

Mr. Deputy Speaker: Order, hon. Member! You have to debate the amendment and then the Question of the amendment will be put.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I already contributed to the amendment by saying that I support it because the issue of poverty, land problems and the food crisis that we have got, go beyond the ethnic clashes and the drought that we have experienced. I spoke about why we need to open up North Eastern Province and other parts of this country. However, I wanted to continue debating the rest of the Motion. I appreciate your intervention.

(Question of the first part of the amendment, that the word to be left out be left out, put and agreed to)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)

(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question of the Motion as amended proposed)

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I would like to support the Motion as amended.

First, I would like to thank both the Mover of the Motion and the Mover of the amendment for thinking it wise to look into this very important sector of our society, that is, farming. They have gone beyond the post election violence and tried to widen up what the Motion is talking about.

The AFC is supposed to cater for two categories of farmers. These are the crop farmers and the livestock farmers. There is a problem here in terms of misplacement of departments. The AFC side that deals with crop farming should be placed under the Ministry of Agriculture while the one that handles livestock farming should be placed under the Ministry of Livestock Development. In order to have good co-ordination and supervision, it is high time we separated the two areas.

However, on the issue of writing-off the loans due to the AFC and ADC, the Government has written-off the loans owed by coffee farmers and others before. So, I see no problem at all in extending the same facility to the other group of farmers who have the AFC loans. A lot has been said about why we should write-off these loans.

Mr. Deputy Speaker, Sir, allow me to talk about my constituency, Loitoktok. The farmers in this constituency have got about Kshs60 million, that is, Kshs15 million in arrears and slightly over Kshs40 million owed to AFC and ADC. My area was not affected by the post-election violence, thanks to my constituents who maintained peace. However, they cannot really pay these AFC loans, the reason being that there was severe drought in that area and the few farmers who harvested their crop took their maize to the National Cereals and Produce Board (NCPB). They have not been paid to date. Those who took loans, and whose business venture was livestock, were affected by a severe drought even before the general elections. Between July and November, 2007, there was a severe drought in that area and in other parts of the country. So, the securities the farmers used to get the loans cannot yield returns that were expected.

Mr. Deputy Speaker, Sir, the interest charged by the Agricultural Finance Corporation (AFC) is not so bad. It is 10 per cent per annum. However, the main issue is the security demanded by the AFC, which is in the form of title deeds or any tangible assets. If you go to the areas that were affected by the post-election violence, you will see that a lot of people's properties were destroyed. A lot of houses were torched. People cannot even trace their title deeds. There is no security at all. It is good that we write off those loans. As a way of motivating the affected farmers to re-settle in their farms, we must write off their loans. If we will give them money, so that they can re-build their houses, then we should also off-load them the burden of repaying the AFC loans they are currently servicing.

The Assistant Minister for Transport (Mr. Mwau): On a point of order, Mr. Deputy Speaker, Sir. The Standing Orders of this House are subject to the Constitution. The Assistant Ministers are not allowed to bring Motions to the House, or ask Questions. It is, therefore, strange that an Assistant Minister can debate a Motion brought to the House by another hon. Member. Although he is at liberty to contribute, he cannot bring one to the House himself. Section 30 of the Constitution vests the legislative power to Members of Parliament.

Mr. Deputy Speaker: Order! Order, Mr. Mwau! Resume your seat!

(Mr. Mwau resumed his seat)

Mr. Mwau, you can rise on a point of order. However, a point of order of the magnitude and issue you are discussing right now can be raised after Question Time. As of now, we have a Motion before us. So, you are interrupting the business of the House. A point of order at this juncture should be relevant to the current business being transacted, which is the Motion before us. So, you are out of order.

The Assistant Minister for Transport (Mr. Mwau): Most obliged, Mr. Deputy Speaker, Sir.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Deputy Speaker, Sir, I was talking about the need to write off the AFC loans owed by both crop and livestock farmers. Farmers lost a lot of livestock last year due to Rift Valley Fever. Right now, there is another disease which is killing a lot of livestock. Our livestock was our security against which the AFC gave us loans. The underlying factor of repayment of AFC loans is the weather condition. The weather condition has affected both crop and livestock farmers.

Mr. Deputy Speaker, Sir, there is also the issue of allocation. Nowadays, the Government allocates money to AFC regional offices based on farmers' repayments. Every regional office is given back 90 per cent of the money it collects from farmers. Therefore, there is a likelihood of AFC officers on the ground harassing loanees, so that they can collect more money and raise their allocations.

The issue of increase in prices of farm inputs and livestock has been mentioned. Livestock

farmers took AFC loans when the price of a cow was Kshs10,000, which has now doubled to Kshs20,000, due to inflation. Inflation has affected all sectors of the economy. So, it will not be possible for such farmers to repay the loans as agreed on when they took the loans.

In conclusion, I would like to urge the Government to take this House's recommendation seriously once we pass this Motion. I have no doubt that this Motion will be passed. Once it sails through, it will be incumbent upon the Government to implement it immediately and write off the AFC loans owed by farmers.

With those few remarks, I beg to support.

Mr. Chanzu: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to support this very important Motion.

As we all know, agriculture is the mainstay of our economy. The agriculture sector is very elastic. So, bad weather affects production in agriculture. It affects the entire economy. Majority of Kenyans depend on agriculture. So, for that reason, I support the Motion as amended.

However, I have been looking forward to a time when we can look into the issue of writing off AFC loans not wholesomely or across the board. Those who are affected mostly by the severe drought and the post-election violence that we have witnessed are the small-scale farmers. We have large-scale farmers who borrowed money many years back. Maybe, because of their political connections, they have not repaid those loans. So, as we pass this Motion, I would like us to look into the possibility of identifying those who deserve write-offs.

Mr. Deputy Speaker, Sir, the Government must play its role of protecting its citizens. One of the problems we suffered even before we got into the post-election crisis and the severe drought that has affected the country, is that of management. Years back, the sector was well managed. However, that cannot be said to be so today. We used to have motorcycles on which field officers used to ride to go and give technical advice to farmers. Today, I do not see that happening. I would like to suggest that the Government should set aside more money for extension services, so that whatever is done to salvage the situation is well-managed.

Mr. Deputy Speaker, Sir, yesterday the Minister for Agriculture said that the Government had set aside some money to support small-scale farmers. I support that move. But there is no point in increasing the amount, if it is not going to be well-managed. I would like to make a recommendation to the Ministry; that they should tighten their controls, so that Kenyans can benefit from the sector once we put in place measures that are being suggested via this Motion.

Mr. Deputy Speaker, Sir, the post-election violence and the severe drought affected farmers, particularly in the Rift Valley Province. But, in neighbouring areas such as Western Province, where we have small-holder farms, most of the year the people there depend entirely on what is produced in the Rift Valley Province for their subsistence needs. In Vihiga Constituency, for example, in December last year, a bag of maize was selling at between Kshs1,200 to Kshs1,600. Today, the same bag is going for over Kshs2,500. That is very serious, bearing in mind that the salaries and wages of many Kenyans have not gone up. Mr. Deputy Speaker, Sir, in supporting the Motion, I would like us to put in place greater measures, which can protect Kenyan citizens. Unscrupulous middlemen have taken advantage of the situation and hiked prices. That is why people are experiencing a lot of hunger all over the country. I would like the Ministry to come up with long-term measures to make the sector more viable.

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

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Speaker, Sir, may I take this opportunity to first of all thank Mr. Wamalwa for the excellent manner in which he moved this Motion. I also take note of the subsequent amendment to the Motion. He has mentioned several occasions when the Government came to the aid of farmers by writing off loans through the Agricultural Development Corporation (ADC) and the Agricultural Finance Corporation (AFC).

Mr. Deputy Speaker, Sir, from the outset, I want to say that I support the spirit of the Motion and its intent, which is to assist our farmers, who were affected by the post-election violence. But I also want to make one or two points for this House to consider.

As we all know, for a long time, we have from time to time been faced with disasters. Some of them, like Mr. Wamalwa said, were the *El Nino*, *La Nina* and other difficulties that have come up. For a response, the Government came up with assistance in form of writing off loans to the farmers, who were affected.

Looking at what the ADC is all about, it was set up in 1965 as a Government parastatal. Its main agenda was to promote sustainable development and reconstruction of agriculture in Kenya. The underlying words here are "sustainable" and "agriculture". We know what in practice they do. They give seeds and loans to farmers.

Mr. Deputy Speaker, Sir, on the other hand, the AFC was set up in 1963. It was incorporated to take over the credit functions of the pre-Independence European and African agricultural boards. Later on, in 1969, the AFC was re-constituted to assume the wider mandate of taking over the functions of the Land and Agricultural Bank of Kenya, which had been set up to assist farmers.

These are two lending institutions to the farmers. Today, we are telling them that they must write off all loans. The spirit of this Motion is good, and must be supported. But this Parliament must not always act on a precedents; it has to become innovative. We have very good brains right here. We do not have to go back to precedents that will make us, in another ten years, come back to the same lending institutions and tell them: "You must write off the loans". If we pass this Motion today, it should be the last one. We should look for other innovative ways in which we can deal with loan situations that arise a result of unmitigated disasters, be they natural or other forms of man-made disasters. We must come up with plans. This is where the thrust of my contribution lies. This Parliament should not keep repeating what other Parliaments have been doing.

Mr. Deputy Speaker, Sir, what have other countries done to find solutions to problems that affect their farmers? The Ministry of Agriculture, and the line corporations like the ADC and the AFC, need to embrace the concept of disaster assistance, which needs to be given to farmers. We have just been very happy to clap for the Ministry of Agriculture for its initiative of making available a Kshs3 billion loan facility to farmers. But if tomorrow we have another disaster - the post-election violence was of our own making---

*(Mr. Shakeel crossed the Floor
without bowing to the Chair)*

The Assistant Minister for Education (Prof. Olweny): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Shakeel to move from where the Chair is straight to where he is sitting without bowing to the Chair?

Mr. Deputy Speaker: Mr. Shakeel, next time, bow to the Chair!
Proceed, Mr. Mungatana!

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Deputy Speaker, Sir, before I was interrupted, I was making this point, that the same Kshs3 billion that has been made available to farmers, if tomorrow we have another disaster which, God forbid, is a natural one, and is not like the one that we created, what will happen to those farmers? This means that the same money will go down the drain, and it will not help these farmers. This means that we in this House need to be innovative. That is why I am talking about the concept of disaster assistance, which needs to be embraced by the AFC, the ADC and the Ministry of Agriculture as a whole.

Mr. Deputy Speaker, Sir, when the Hurricane Katrina disaster hit the American East Coast,

there was a lot of destruction of property. A lot of people were messed up. Traders were bankrupted. The House of Representatives, together with the Senate, set up a fund that would assist people in business. In our particular case we can adapt our assistance programme to be for people in the farming business. Money should be set aside for such people. If you are taking a loan there should be a fund, which will come in specifically to assist disaster-hit farmers, so that when there is a natural disaster, we will not need to come back here to ask the AFC and the ADC to write off loans. There must be a fund which will be set up deliberately to assist our farmers, so that people are not sent back 30 years in time.

Mr. Deputy Speaker, Sir, I am even proposing that one of the rules, when this fund is set up, is to have a moratorium lasting a year for those farmers who have applied, been vetted and accepted. This kind of facility should be as long as 20 to 30 years because remember, we are assisting people who have been hit by disaster. This idea of disaster assistance being embraced will be the way forward. We do not want to bankrupt our institutions called AFC and ADC.

Mr. Deputy Speaker, Sir, right now, we have already passed the Supplementary Estimates. If we ask AFC and ADC to write off those loans, where will the Government get the money to inject into them. The spirit is good. But when those two institutions are writing off the loans, the Treasury has to put aside some money. Where are we going to factor in that money? That is why I am saying that if we pass such a Motion, it should be the last time we are doing so in this House. Parliament must stand firm and insist that new innovations be put in place. We should not be saying that in 1963, we gave free loans to farmers. No! We should come up with fresh innovations. Parliament must insist and a definite message be sent to the Minister for Agriculture that we need new innovations that will deal with the problem because it will occur again. The weather patterns in this country are very erratic. We do not know what we will do when there is drought and we are not able even to get money to support our farmers.

Mr. Deputy Speaker, Sir, this thing needs to be looked at much more deeply. I support this Motion. We should pass it, but we should send it with a message to the Minister for Agriculture and to the line corporations, that they need to come up with methods which will cushion farmers forever in this country. We want to be sure that we will have our agricultural supplies in a self-sufficient manner.

Mr. Deputy Speaker, Sir, finally, I would urge the entire House, as we debate this Motion, to consider supporting it.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Shakeel: Thank you, Mr. Deputy Speaker, Sir. I support this Motion in spirit. I also agree with the sentiments of my hon. brother, Mr. Mungatana. The spirit of this Motion is good and the intention is even better. However, you cannot kill the dairy cow just to satisfy immediate hunger. Let me suggest an amendment. The amendment that I propose---

Mr. Deputy Speaker: Order, Mr. Shakeel! The Motion is being debated as amended and it has been carried by the House. So, you debate the Motion as amended! There is no provision for it other than debate it!

Mr. Shakeel: Thank you, Mr. Deputy Speaker, Sir. My argument is that ADC and AFC are financial institutions set up by this House. This will affect the viability of the agricultural financial sector. All we are doing is postponing the problem to a later date. The issue of writing off all AFC and ADC loans as a block will not help our financial sector. Perhaps, what we need to do is for the Government to provide a moratorium on all AFC and ADC loans to suitable and qualified farmers as was brought up earlier.

Mr. Deputy Speaker, Sir, there are very many large-scale farmers who have had loans granted to them over the years. Those are interested parties who may have taken loans because they knew people in the system. If you give them write-offs on all ADC and AFC loans, I am afraid that

we will not squarely solve the matter at hand. The matter at hand affects the smaller farmers and others who have been affected directly by this situation. A moratorium is the most sensible way to solve this problem. If you gave the ADC, AFC and the Government the opportunity of looking at that moratorium, they can then decide what they will write-off. They need to decide what they cannot write off on the basis of merit and an overall write off of loans. That is my suggestion.

Thank you, very much.

Prof. Kamar: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to debate on this very important Motion. Let me first, thank Mr. Eugene Wamalwa for bringing this Motion. I also want to thank the hon. Member who brought the amendment. The amendment is very important because what the post-election crisis did was to expose a perennial problem that our farmers have had.

Mr. Deputy Speaker, Sir, our farmers have fed this country for many years, but they have lacked recognition. It is only at a time like this when the food crisis is pinching hard that they seem to be remembered. So, I support this Motion first for the write-off. However, I would also like to echo what one hon. Member said that this should not be a practice. We cannot continue to treat the symptoms. We need to have a system that addresses the problems of the farmers properly.

Mr. Deputy Speaker, Sir, an analysis was done earlier; on what our farmers are doing. Our farmers are simply putting money at one end and getting almost nothing for it. When we talk of a profit of Kshs300 per acre per month, we are talking of somebody who is toiling to provide food for this nation, but cannot live on Kshs300 per month. This country requires a master plan for food security within which we must recognise all the stakeholders and the farmers as the key producers in the system. This is so that the issue of coming back with a Motion that is dealing partially with the problem be a thing that should be finished by this Parliament. I believe that this Parliament can be innovative enough.

Mr. Deputy Speaker, Sir, I come from Uasin Gishu District. Uasin Gishu and Trans Nzoia districts are the food basket of this nation. However, when it comes to looking at our farmers, whether large-scale or small-scale, especially in Uasin Gishu District, they are the poorest in society. Their children are seeking for bursaries right from primary school to university level. It is very deceiving to look at a large-scale farmer and imagine that they have everything. When we talk about innovations, there was something called the Agricultural Mechanisation Services (AMSs) in the Ministry of Agriculture, which I am glad was revived to solve the issue of post-election violence. We need to have a systematic way of reviving the AMSs in this country because our farmers are victims of everybody. They are victims of owners of machinery. They are victims of middlemen who buy their produce very cheaply. They are also victims of importers of fertilisers. They produce their crops expensively and we have middlemen who import them cheaply. One would be asking the question: Why is it cheaper to import than it is to sell what we produce?

Mr. Deputy Speaker, Sir, we all know, and for those who do not know, that the developed world today subsidises agriculture for their farmers. If we cannot afford to subsidise our farmers, then we must look for a way in which our farmers can make something out of it. The problem is that imported foodstuff is cheaper because of the subsidies.

If you look at our neighbour, Uganda, where they had a lot of subsidies on fertilizer two years back; it was cheaper for a farmer to import maize from Uganda and sell it to the National Cereals and Produce Board (NCPB) than to produce it. The maize that was being produced in Uganda was selling at a profit when it was selling at Kshs600 per bag. The producer cost in Kenya was Kshs800 at that time. So, it was impossible for any farmer to produce and sell maize for less than Kshs1,000 per bag. If you go for the Kshs300 per acre, they would have had to add their Kshs4,000 which, the hon. Member said per acre, and that would have meant that they must sell it at Kshs1,200 per bag.

Let this Motion be an eye-opener to us; that we really must address the issue of the farmers because they are the sufferers in this nation and yet they are the ones feeding this nation. We must deal with the issue of middlemen and come up with innovative ways in which our farmers must earn profit for their sweat.

Yesterday, the Minister for Agriculture talked about the new initiative; the *Kilimo Biashara* Initiative of Equity Bank. We are informed that the interest rate is going to be 10 per cent. I can tell you that even with 10 per cent interest rate, there is nothing those farmers are going to make. If we want to actually come up with a fund for farmers, let the Government initiate it and let them not use another middleman called the bank because a bank must get its own funds out of it first.

(Applause)

I am sure there are many sources of funds that the Government can source from including the European Development Fund (EDF) which I hear we are going into the tenth batch. I think the Ministry of Finance should look into that because those are talking of 2 per cent to 3 per cent interest rates. Those are the kinds of monies that our farmers require. But when you talk of 10 per cent, you are again giving the profit to a bank. You are not giving anything to the farmer. It is no wonder that our farmers are not interested even in the Agricultural Development Corporation (ADC) or bank loans any more. The reason is that their poverty cycle has never stopped! The only reason we still have farmers in this country, I want to say, is the fact that they have nothing else to do. There is unemployment for their sons. So, their sons would have to go for farming.

Mr. Deputy Speaker, Sir, I also want to mention that in Uasin Gishu District, and in Eldoret East in particular, two years ago, we discovered a better crop called the passion fruit. The passion fruit fetches more money than maize and wheat yet it is not selling much in Kenya. It is selling in Uganda. So, our farmers, at the risk of the food security of this country, are going to diversify and move to an export crop that will be going to Uganda. What are we going to do? As the leadership of this country, it is important that we come up with what we call a master plan for food security and farmers must be taken care of.

With those few remarks, I beg to support.

Mr. Jirongo: Thank you, Mr. Deputy Speaker, Sir. Let me also take this opportunity to thank Mr. Wamalwa for having come up with this Motion. As much as I am supporting the Motion, there seems to be certain issues that we have failed, as a Government and Parliament, to put in place to turn farming into a viable business. In this country, when there is over-production of maize, the prices go down drastically. The following year when there is a shortage, the prices of the same crops skyrocket. It means that it is very difficult to have farming in this country as a viable business. Any business that incurs a loss only once in a year and needs salvage, it shows that, that business has a problem. It shows that it is founded on the wrong footing. In this country, generally, farming has been neglected. It has been neglected because you will find loans offered to our farmers by the Agricultural Finance Corporation (AFC) are annual loans, particularly those for production of cereals. Annual loans highly dependent on the prices at the end of the year. At the time the AFC extends loans and the prices of the crops go down, the farmer naturally is incapable of repaying that loan. Of course, the farmer will not be able to produce the following year. This means that this country needs to look at its policies for farmers much more deeply.

In a place like the USA, the Government goes out of its way to purchase crops from its farmers when there is over-production. That helps in sustaining proper pricing so that the farmer realises some profit. This country literally has left the farmer at the mercy of unscrupulous businessmen who depend on the law of supply and demand.

The other area that has totally been neglected is the livestock area. When the ADC was set

up, it was meant to provide infrastructure for the farmer. The entire North Eastern Province and the dry areas of the Rift Valley can be turned into productive land if they were provided with water. To purchase land in Trans Nzoia today is about Kshs300,000 per acre. For places like the North Eastern Province, if we invested only Kshs100,000 in drip irrigation system per acre, you will turn that land into viable land as the one we have in Trans Nzoia.

Mr. Deputy Speaker, Sir, the other area which has lagged behind is that we seem to be doing research for the sake of it. During agricultural shows, when you go around this country, you will find production per acre, while being demonstrated by our scientists to be extremely high, but when you go to the real production, you will wonder what is happening. It means that the investment in our research in this country is not being translated to help the farmer. The research is not being taken to the field. We need only to provide water to the Coast Province and food production in this country will improve greatly. We only need to provide water to the North Eastern Province and this country will be exporting livestock products. The ADC needs to do what it was created to do. It has turned into a farming institution. The only thing the ADC does today is to plough its farms in Kitale and produce maize instead of providing irrigation systems to these arid areas and ensuring that we have water to expand the area of production in this country.

Land has become a major problem in this country, yet we hardly use any portion of our land. The areas that are favoured with water only are where we have concentrated our activities. These institutions need to be turned into viable institutions. The Agricultural Development Corporation (ADC) and the Agricultural Finance Corporation (AFC) need to be viable institutions. They can only be viable institutions if the Government comes up with a system to ensure that the farmer is well-paid, and that we produce pastures for our pastoralists and that when we have drought, it does not have to affect the whole country. Most of the waters of this country drain into the Indian Ocean. The rest of it goes to Lake Victoria and ends up in the Mediterranean Sea.

Mr. Deputy Speaker, Sir, the Ministry of Agriculture, and its institutions, can form a basis of transforming the economy of this country, because farming does not need a lot of technical input to be productive. Farming requires water and marketing and that will turn every Kenyan into a productive citizen. As we support this Motion, we also want the Ministry of Agriculture to be serious, and look at the vast lands in this country and realise that every Kenyan needs support, so that he or she could be productive and be useful to this country.

With those few remarks, I beg to support.

Mr. Ruto: Mr. Deputy Speaker, Sir, I wish to also congratulate Mr. Wamalwa for bringing to the House this important Motion. Farming has become a terrible business.

Mr. Deputy Speaker: You have five minutes!

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

Farming has become a terrible business, yet we all need food; we cannot operate without it, but the poor farmer has to bear the cost of feeding us. In my constituency, there are over 500 farmers, who are now under very serious threat of their properties being auctioned. They took loans the other day when they were expected to plant and be able to repay. This was not possible because of the violence and several other factors.

We expect the Ministry of Agriculture to also put its act together. For example, at the moment, seeds are very expensive. One kilogramme of seeds is sold for about Kshs130, yet a kilogramme of maize is purchased by the National Cereals and Produce Board (NCPB) at about Kshs10. We cannot understand how Kenya Seed Company multiplies the cost of seed until the farmers are unable to purchase it. I wish to ask that the Government actually implements the resolution of this House today to write off the AFC loans.

I also wish to request the Ministry that, while it is in the process of writing off these loans, according to the resolution of this House, it should stop any further charges on interest on these

loans. They should also immediately suspend any further harassment of farmers. The AFC is busy rounding up properties belonging to farmers at the moment. I hope that the Ministry concerned will stop it immediately.

Mr. Deputy Speaker, Sir, furthermore, there has been lopsided support to farmers. The Government has written off loans, or has provided money to pay off debts, in the coffee and pyrethrum sectors, but the milk farmers are being auctioned, because the New Kenya Co-operative Creameries (KCC) was unable to pay for the deliveries from farmers. I want to request the Ministry of Agriculture to consider paying the farmers who were unable to realise payments from the defunct KCC, especially now that the Government has taken over.

With those few remarks, I beg to support.

Mr. Deputy Speaker: I will call upon the Government Responder to respond.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Deputy Speaker, Sir, this is a very important Motion at this time. All of us know what happened. The Government, through the Ministry, has really tried to do a lot of things for people who were affected. Of late, we have been ploughing for many farmers. We have even given out fertilisers and seeds. The Government continues to assist these people.

While I sympathise with this Motion, I would like to ask the House that when we are doing the estimates for the next financial year, we should bring this up. At the moment, even if we pass it the financing involved will be enormous, and we will not be in a position to do it. While we appreciate the problem, and are sympathetic to our people who cannot do much in their farms, because everything has been destroyed, I urge the House to also bear in mind the other things that the Government is trying to do.

[Mr. Deputy Speaker left the Chair]

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

Madam Temporary Deputy Speaker, I know that there are people who are not going to be able to service their loans, but the only thing that I can say at the moment, on behalf of the Ministry, is to request that we be patient and try and see whether the required funds could be provided in the next Budget. We should have brought this before we did the Supplementary Estimates. It could have been something better done at that time.

Mr. Mututho: On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister for Agriculture is avoiding issues. There are 523,000 families. The problem was specific. They said that they needed ploughing and they also knew they had loans which they had borrowed. So, it would be important to say that when you take your tractors there, you are also compensated. It is not a question of putting the matter in the Budget.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Mututho, you rose on a point of order. So, you need to make it a point of order.

Mr. Mututho: I stand corrected, Madam Temporary Deputy Speaker.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Agriculture (Mr. Ndambuki): Madam Temporary Deputy Speaker, as I said, this is a very crucial Motion, and we should give it the importance it deserves. I cannot stand here and promise something that we cannot do as a Ministry. I am saying that I will take this matter to the Ministry, and we will see whether we could look for some more funds in the Ministry to assist in this. At the moment, as much as I would like use the term "write-off", I do not want to use it until we look at our Budget, and see what is happening. For example, at the moment,

we are restructuring the AFC to make it a better and viable. In fact, I am from the Kenya Agricultural Research Institute (KARI); we were meeting with all the Chief Executive Officers (CEOs) of all the parastatals under the Ministry. We were trying to find out how they can improve their operations, and how they can collect what they have given out and also sensitise their workers instead of them just remaining idle. So, the Ministry has started on a very high note. Yesterday, we launched the *Kilimo-Biashara* Initiative with Equity Bank, and some other Non-Governmental Organizations (NGOs). Other banks have been calling the Ministry, because they want to launch a similar deal. We are willing to do a similar thing for farming of vegetables, horticulture and so on. Yesterday's initiative was for only grains, that is, maize, wheat, beans and so on. We shall come up with other two banks, which will finance a similar project.

The whole idea is to make sure that we give our farmers incentives, so that they could go back to their farms and do better farming. Initially, farming was done for the production of food, but now we want to change it and make it a business. That is why we are coming up with these projects. We are going to look at this, and see how we can help, but it is not something which we can do now. The Ministry has to assess what is involved in the write-off of the loans from the ADC and the AFC. If we say that we are going to do that wholesale, it is not going to be possible. There are some people who are capable and can service their loans, but we know that the small ones cannot do so. So, I would like to inform the House that we will look at this Motion and do what is necessary in our next Budget. I am sure the Ministry will communicate what action we will take.

With those few remarks, I beg to support.

Mr. Wamalwa: Thank you, Madam Temporary Deputy Speaker. I am very grateful to the Assistant Minister for supporting this Motion and for confirming to the House that the Motion, if passed, will receive the attention of the Ministry. They will look into it. I would like to impress upon the Government through the Ministry of Agriculture, the gravity of the situation. The food crisis facing this country is not only a national problem but also a global crisis. I would wish that the Government takes this issue seriously. I would also like to thank hon. ole Metito for actually bringing to the attention of the House that, apart from the post-election violence that caused famine in regions of the Rift Valley Province and other areas, there were also issues of drought that affected other regions. I wish to support his amendments by saying that any farmer anywhere in this part of the Republic must be supported whether affected by violence, inflation, middlemen, importers or high cost of fertilisers that have affected this country, that farmer whether affected by drought must be given the necessary support. That way, they can produce more food to avert the food crisis which is facing this country.

Madam Temporary Deputy Speaker, I would also like to thank the hon. Chanzu for raising a very crucial issue that, indeed, in previous Parliaments when the Agricultural Finance Corporation (AFC) loans were written off, there was the issue of those who were able to pay such as the large-scale farmers, who service AFC loans not being excluded. Indeed, it is important that, if there would be any relief, those who can afford to service their loans be excluded. But the small-scale farmer who is completely afflicted by the vagaries of weather and the high cost of inputs should be assisted. I need to disclose the fact that I am also one of the farmers affected. I am from an area that has been affected. I am also a customer of the AFC. But for us in this House and other parties that can actually afford to service our loans, we must do our part. The beneficiaries should be those small-scale farmers who actually deserve help.

Madam Temporary Deputy Speaker, I would also like to thank hon. Mungatana for raising a very crucial issue, which I hope the Assistant Minister will pick up. We have been having this problem regularly. We have been writing off these loans regularly. But it is about time that the Government came up with a disaster fund where in situations like these, the Government can fall back on this fund to support the afflicted farmers. This should be done urgently to address

situations like the one we are facing currently where this nation is tipping into the national food reserves. It is very worrying to know that we only have about two or three months to go before our strategic grain reserves run out. It is a scary situation to imagine. I am glad that yesterday the President addressed this issue by urging that the strategic grain reserves be increased from the current four million bags to eight million bags to ensure national food security.

Madam Temporary Deputy Speaker, I am also very grateful to your contributions that, indeed, we need a national master plan for our national food security. As we stand now, what we need is really a marshal plan to encourage our farmers by not only giving them incentives but also putting money into their pockets after writing off their debts. We need to mobilise our farmers to produce more food. This must be done as a matter of urgency. So, the Government must go the extra mile to ensure that this is done.

I think it is also important to address the issue of middlemen and importers who ripped-off farmers. The Government should have a policy in place to ensure that there is a long-term solution to the problem of high cost of fertiliser. I think, these are options that the Government needs to look at, in order to cushion our farmers. As hon. Jirongo said, the Kenya farmer is totally exposed to the vagaries of weather, the high cost of fertiliser and we need to do something to protect the Kenyan farmer. In Europe and America, the farmer is a very protected person through subsidies and other support from the Government. We need that to be done here in Kenya as well.

Madam Temporary Deputy Speaker, I am very grateful that Members have supported this Motion. I urge that the same be passed. The Government should take the necessary remedial measures to ensure that the farmer is assisted especially in view of the crisis that this country is now facing.

As I conclude, I would like to impress the point on interest rates. The AFC has been lending loans to farmers at 10 per cent interest rate. In fact, it is about time that something was done to ensure that these loans advanced to farmers are actually more affordable. We have been told of Equity Bank availing similar credit facilities at 10 per cent, the rate at which AFC is lending. But we believe that with proper arrangements, these monies, if sourced from more affordable sources, a farmer can afford to pay 5 per cent instead of 10 per cent, if the Government intervenes and works on the interest rates.

With those few remarks, I wish to thank all Members for supporting this Motion. I also wish to thank the Assistant Minister for supporting this Motion and promising that the Government will look into these issues. Apart from the issue of financing, there are other issues which were raised by Members to do with boosting of productivity through research and irrigation. I hope the Ministry will take up these issues to enhance production and ensure national food security.

With those few remarks, I beg to Move.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:-

THAT, in view of the devastating effects that severe drought and the post-2007 election crisis had on farmers particularly in the Rift Valley Province and other affected areas; aware that many farmers' capacity to service AFC and ADC loans have been severely affected by the situation and are unable to access further financial support from these institutions in order to develop their farms and enhance production; acknowledging that agriculture still remains the backbone of our economy and that our national food security is threatened by the crisis; conscious of the necessity to empower farmers so as to enhance production in view of the

impending global food crisis; this House resolves that the Government writes off all AFC and ADC loans owing to the said institutions by farmers in the Rift Valley Province and other areas affected by the post 2007 election violence.

INTRODUCTION OF
OFFICIAL OPPOSITION BILL

Mr. Namwamba: Madam Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, appreciating the critical role of the Official Opposition in Kenya's progression as an emergent democracy, and further recognizing the unique circumstances that have beget the Grand Coalition Government and the probability of similar circumstances arising in the future; this House grants leave to introduce a Bill for an Act of Parliament entitled "The Official Opposition Bill" to anchor, govern and regulate the Opposition in Parliament.

Madam Temporary Deputy Speaker, the objective of this Motion is to open the way for the enactment of what, if passed, would become the very first piece of legislation that would define and clearly provide the essentials of the Opposition in this House.

I am well aware that I am moving this Motion in an atmosphere of apprehension, suspicion and even some fears. There is also an atmosphere of uncertainty because what we are seeking is something that has not been attempted before in this House; basically, having a framework that will support a heterogeneous Opposition as opposed to a homogeneous one as we have seen in the past 45 years of our Independence.

Madam Temporary Deputy Speaker, I want to tell hon. Members that are harbouring such apprehension that even 200 years go, as the USA grapples with its own challenge of establishing a democracy, Abraham Lincoln told the American people that "as our challenges are new, so must we think anew." I want to challenge hon. Members today, that as we debate this Motion, let us become aware of the new challenges facing us today and be willing to think anew; outside the box.

Madam Temporary Deputy Speaker, the significance of the Opposition cannot be gainsaid. Writing on the role of the Opposition in India, Pavasi Amal said the following:-

"It has been claimed by the English that the institution of the Opposition embodies the greatest contribution of the 19th Century to the arts of Parliamentary Government."

He goes on to say:-

"The Opposition has a very important responsibility and effective role to perform, including subjecting each of the Government departments to the searchlight of public opinion and to offer alternative policies for better ensuring the good of the people."

This Motion rests on four central imperatives. The first imperative is that of sealing a constitutional and legal lacuna. It is one of the most amazing anomalies of our political system that there is no single piece of legislation in the entire legal framework of this country that defines the Opposition in this House. If you look at the Constitution, you will see that it is silent on the Opposition. The National Assembly Powers and Privileges Act, Cap. 6, Laws of Kenya, is silent. If you look at the National Assembly and Presidential Elections Act, Cap. 7, you will also see that it is silent.

The Political Parties Act, that this House enacted last year, is silent on the issue of the Opposition. Even that most celebrated Bomas Draft Constitution was silent on the issue of the

Opposition. You have to dig and get to the bottom of the legal system and arrive at the introductory section of the Standing Orders to come across the first reference to the Opposition in terms of definition. That definition came into being as a result of a conflict that arose in 1993 between FORD(K) and FORD(A) where the Speaker was required to rule as to who was the legitimate Opposition in the House. It is on the basis of the ruling of the Speaker, on 8th April, 1993 that, that definition sneaked into the introductory part of the Standing Orders.

Against this background, I would like to pose a question to hon. Members here: Is it right that an institution as critical to the functioning of this House and to the progression of democracy should continue to operate in this kind of statutory nakedness? I tell hon. Members that it is not right and it is not proper. The Opposition is an institution whose character and significance in the operations of this House require sufficient and comprehensive legislation. Can we really justify why we cannot seize this moment to clothe the Opposition in fine linen of statutory text? I say, yes we can!

Madam Temporary Deputy Speaker, as these questions caress the length and breath of the minds of hon. Members here, I want to remind them that even the Westminster Model that we pride ourselves to have grafted onto our own model along has a very clear statutory framework for the Opposition through the 1937 Ministers of Crown Act. If we want to ape the Westminster system, why would we also not ensure that the frameworks we borrow are anchored on legislation?

The second imperative is that of fulfilling institutional and procedural customs. It is an established custom of this House that this House cannot operate and function effectively in the absence of a formally recognised Opposition, sitting and operating on the left hand side of the Speaker. The Constitution and the Standing Orders establish custom, practices and usages envisaged in a situation where both the right side and the left hand side of the Speaker is fully anchored and effectively operational.

Madam Temporary Deputy Speaker, when you look at Section 45(b), Subsections (d) and (e) of the Constitution, it contemplates that the Leader of the Official Opposition party with the highest number, even if it is one, shall have the automatic right to sit in the Parliamentary Service Commission. The same Section contemplates that at least three Members sitting on the left hand side of the Speaker shall be Members of the Parliamentary Service Commission. That is a Constitutional requirement and it is a Constitutional imperative. You cannot emasculate it and suffocate it.

Madam Temporary Deputy Speaker, there is an established custom in this House that the Leader of the Official Opposition shall occupy the head seat on the left hand side of the Speaker. It is an established custom that the Leader of the Official Opposition shall chair the Public Accounts Committee; that leader shall be a point of contact for foreign dignitaries visiting these institutions. That leader shall have institutional back-up, complete with budgetary support. Those are institutional imperatives! You cannot postpone them. You cannot suspend them. You cannot emasculate them!

Madam Temporary Deputy Speaker, there is the established practice in this House that the functions and operations of this House shall enjoy a Shadow Cabinet; the services of a Shadow Cabinet that shadow the Government. There is a reason why this House has established customs, practice and usage of a Shadow Cabinet overseeing the operation of the Government. That is an imperative. It is an imperative of custom. It is an imperative of practice. It is an imperative of Parliamentary usages.

Madam Temporary Deputy Speaker, in a 2008 Paper published by this House's research service concluded as follows:-

"Preserving and enhancing the role of the Opposition is critical to the democratic legitimacy of our system as a whole. With rare exceptions the Government---"

I want this to be marked, underlined and bolded.

"With rare exception Government Backbenchers cannot hold the Cabinet and the Civil Service to account. It is the Opposition which is chiefly responsible for keeping the Government on its toes, and for fearlessly asserting the rights of the Legislature *vis-a-vis* the Executive. By performing these duties, the Opposition is really doing everyone a great favour".

Madam Temporary Deputy Speaker, those are findings by the Parliamentary Research Service of this House. It is underlining, amplifying and asserting the irrefutable and unimpeachable significance of having an Opposition in this House.

Madam Temporary Deputy Speaker, in 1998, there was a workshop that was sponsored by the Commonwealth Secretariat and the Commonwealth Parliamentary Association at Malborough House in London. The theme of the workshop was "The Role of the Opposition". The workshop concluded as follows:

"An effective and responsible Official Opposition is essential for the success of parliamentary democracy."

It continues to say:-

"Parliamentary arrangements must be such as to enable the Official Opposition to hold the Executive to account".

Hon. Members, do we desire to suspend, emasculate and suffocate these traditions and customs, simply because today we are enjoying the blessings of a Grand Coalition Government? Must we fall victims of a temporary arrangement to emasculate institutional imperatives? I say, "No, we cannot!"

(Applause)

Madam Temporary Deputy Speaker, the third imperative is that of satisfying public expectation. The public has very high expectation of the Tenth Parliament. They have expectations to see a new Constitution emerge out of this Chamber. They have expectations to see far-reaching statutory, institutional and policy reforms enacted by this House. These expectations will only be fulfilled if the left hand side of the Speaker functions as effectively as the right hand side. These reforms can only be pursued and achieved if this House is balanced in its operations. That balance can only come if we have a formal Official Opposition.

Madam Temporary Deputy Speaker, the final imperative is the imperative of innovation and history. History has conspired to place us in a moment, where we can make and re-make history. Mr. Mandela would take tell South Africans that sometimes it falls on a generation to be great. You can choose to be that great generation!

(Applause)

I tell this House that it can choose to be that Parliament that refused to think inside the box. It became that Parliament that decided you can have Opposition homogeneity, as we have had before, or you can also have Opposition heterogeneity; just as we have had Government homogeneity, with a single party ruling this country, and today we have Government heterogeneity. What is good for the Government is also good for the Opposition.

(Applause)

Madam Temporary Deputy Speaker, as I move this Motion I am very aware that there are

certain underlying fears and apprehensions that I have already made reference to. There is the suspicion and fear that this Motion is founded on political vengeance. There is suspicion and fear that hon. Members are seeking the establishment of this institution because they missed out on Cabinet appointments. That is not only an insult to the integrity of hon. Members sitting on your left hand side, but it also is also a very myopic view. I do not think there is any hon. Member in this House who is so myopic in their thoughts that they would imagine we can have a Cabinet of 222 people! We are fully aware that we can have a Cabinet of only so many. We know that one is elected as a Member of Parliament not to become a Cabinet Minister, but to play his or her role to legislate, oversee and represent the people.

Madam Temporary Deputy Speaker, hon. Members on your left know that vengeance is the Lord's, and so we are not actuated by any vengeance!

(Laughter)

There is also the fear that this amounts to a political coup. I want to assuage this fear. There is no attempted political coup. We are motivated by the public good. Many fear that this is going to amount to another political party. No, this is not the formation of another political party. It is a seed to plant a new dispensation that will introduce parliamentarism in its purest form, where this House functions and operates effectively.

There is also the fear of the unknown. People are imagining how they are going to deal with an "animal" they have never dealt with before. George Bernard Shaw would say, "Some people see things that are and ask why; but I dream of things that never were and ask why not". May we have the courage like George Bernard Shaw to ask, "Why not Opposition heterogeneity?" Ralph Waldo Emerson would even add and say, "Do not go where the path leads. Go instead where there is no path and leave a trail". I want to challenge this House, let us not be fixated on the known and beaten path. Let us pursue the untrodden path and leave a trail for history!

(Applause)

Madam Temporary Deputy Speaker, I have looked at many examples across the world. Two things come to my mind. One is that there are very few nations that have had a challenge like we have here. The first is Sri Lanka. Before the reign of Prime Minister Bandaranaike, Sri Lanka established the tradition of Opposition heterogeneity. This is where they had a multi-collection of parties and individuals, marxists, communists, conservatives, all gelled into one with the sole purpose of checking the Government. The Government, and I hope this Government is not going to do the same, fought the Opposition until the Speaker of the House came to the aid of the Members on his left. He allowed them to elect a leader who would be recognised as an Opposition. I ask the Chair to rise to the challenge and ape that great tradition of Sri Lanka. The good thing is that when Prime Minister Bandaranaike crossed the Floor in an election to become the Prime Minister, she did not only ensure legislative anchor, but also that the Opposition was handed the full wherewithal and institutional back-up to function. We had an example in Sri Lanka

Today, there is an arrangement in Russia called "Other Russia". It gravitates around the former chess world champion Gary Kasparov.

"Other Russia" is a multi-collection of politicians and individuals that have arrogated to themselves the responsibility to check the Government. They are playing that role. What we are doing here may not be exactly similar to that. That is why the second plunk of that argument is that what we are attempting to do here, if, indeed, we proceed to provide legislative anchor for this process, will have set a precedent. It will have shown an example to the world.

Hon. Members, Mr. John Lork said: "New opinions are always suspected and usually opposed without any other reason, but because they are not already common." Do not oppose this Motion and its agenda merely because it is not yet a common agenda. Support this Motion because it is a known palliative that we cannot run away from.

I want to appeal to this House that this is a special day and occasion.

Madam Temporary Deputy Speaker, I beg to move and ask hon. Linturi to second the Motion.

Mr. Linturi: Thank you, Madam Temporary Deputy Speaker. Let me start by saying that there is every need to have a structured and recognized official Opposition in this House to check on the excesses of the Government. It is common knowledge and true that a Government without an opposition can easily transform itself into a conspiracy against the people of Kenya. The excesses and over-indulgence of the Government can only be checked by an organized and a recognized opposition.

Madam Temporary Deputy Speaker, we all agree that this House was once rushed into passing a law that we believe is bad. I believe and trust the minds that really sat down for very many days trying to come up with the National Accord and Reconciliation Bill, that made this country to be in the situation that it is today. However, they did not think outside the box as my friend, hon. Namwamba, has said. They did not come up with a structure that would have established an Opposition which is so important to this House.

Madam Temporary Deputy Speaker, I believe that Kenya being a multiparty democracy, it was not just easy to establish a multiparty democracy. This practice is borrowed. It is not an invention of this country. However, it is a practice that we have come to embrace because it is for the common good. It checks and makes sure that there is good governance.

Madam Temporary Deputy Speaker, I would want to refer to the late 1980s and early 1990s when this country had a single-party system. The Executive would conspire and silence those dissenting Members, that would not agree with them. That is why we found that, in most cases, the Prime Minister of this country was a regular client at Kamiti Maximum Prison.

Madam Temporary Deputy Speaker, we also note and remember very well that, immediately the negotiations were going on for the formation of a Grand Cabinet, Members were heard loudly talking about taking Ministries that had steak and they did not want those that had bones. There is a clear indication that the interests and intentions of the Cabinet and Government that we want to check are only about eating and amassing so much. Their interest is not to serve the Kenyan public. So, it is very important that we support this Motion, so that we can come up with a structure on how we can have an officially-recognized Opposition that will be responsible for giving official replies to Government Motions and Bills.

Madam Temporary Deputy Speaker, when I look at the constitution of the Cabinet, and hon. Members will agree with me--- We realise that when "Wanjiku" sent away 70 per cent of the Members of the Ninth Parliament, it was a clear indication that "Wanjiku" was tired and she wanted change. But what do we see today? About 70 per cent of this Cabinet is composed of that "thing"; the old recycled material that has gone into records. It is composed of those that served in the Moi regime that really ran down this country. It is unfortunate that they are now in charge of public funds. We really need to make sure that we have a system that is in a position to keep them on their toes for the sake and good of this country.

With those few remarks, I beg to second.

(Question proposed)

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Thank you, Madam

Temporary Deputy Speaker. I will also try to be as brief as possible. I stand to support this Motion.

(Applause)

Madam Temporary Deputy Speaker, in my view, I was expecting that, immediately this Motion landed to the ballot box; that when the House Business Committee sat down to vote for this Motion, the Leader of Government Business would have called Mr. Namwamba and asked him to give that chance to the Government to be able to move this Motion. I was hoping that the Attorney-General or Minister for Justice, National Cohesion and Constitutional Affairs would have taken over the Motion by now, so that justice can be done to the people of Kenya and not only to this House.

Madam Temporary Deputy Speaker, when the National Accord was being signed, if those who signed it really had Kenyans at heart, they would have moved it alongside this Motion that we are discussing today. That is the only true and surest way to ensure that democracy flourishes in this country.

Section 1A of the Constitution of Kenya states clearly, that the Republic of Kenya shall be a multiparty democratic State. If we are really serious that we want this country to advance, and we do not want to experience the problems that we are having today, we must start respecting the Constitution. We must also always speak our mind.

There is no way we have a Government without a vibrant Opposition. There is no way we can have a vibrant Opposition without an identity. We must give the Opposition an identity, so they can know where they are coming from. You cannot just help them to sit on the Opposition Benches and, yet, they are not co-ordinated. How do you co-ordinate them if they are not one? Give them an opportunity to be one. Let them have an identity. If you are not selfish and you know that you do not want to do bad things in the Government, then allow checks and balances. There is no way you can have checks and balances without a vibrant and strong opposition! This Government of the Grand Coalition is trying to suppress this Bill. This is a silent conspiracy to suffocate Kenyans, to suppress them and the voice of reason!

(Applause)

If we are sure that we want to have a clean Government, which I doubt whether we have--

(Applause)

Then we must allow whistle blowers from the other side so that if we have murderers in this country; if we have people that we suspect on this side, they should be pointed out! Let us run the Ministries knowing that there is somebody else who is pointing at us and we are responsible. Otherwise, the era of godfathers is gone and should be behind us now! We should speak out our minds! You cannot tell me that I am seated here because I am a Government Minister and I want a Government position! What is your position? I have my own position. My position is very clear; that we have to get this country out of the problems we are having. Let us have a new Constitution, let us have people who can speak and be frank on what they think, but not consulting--- We do not want Members to say: "I am going to consult". Whom are you consulting? You were elected by your own people to serve them! Say what you believe in!

(Applause)

Madam Temporary Deputy Speaker, because I know that all these hon. Members want to contribute, I would wish that we pass this Motion today and we request that the Bill be brought before the House in a week's time.

With those few remarks, I beg to support.

Mr. K. Kilonzo: Thank you, Madam Temporary Deputy Speaker. I stand here equally to support this Motion. I think the Mover of this Motion was very clear. I want to congratulate the Assistant Minister who, also, has been very eloquent and very clear.

Madam Temporary Deputy Speaker, what is happening in this country today is doublespeak. Politicians know how to doublespeak. When they are on this side, they support the Opposition. When they are in the comfort zone, they do not want the Opposition! We want to say that there is no government which can perform its work without an effective Official Opposition. That is what we are asking for today.

Madam Temporary Deputy Speaker, I have heard many people and leaders say that we should consult and that Backbenchers should take a role of being the Official Opposition even without there being legislation. Never again should Kenyans put trust in an individual! They should put trust into institutions!

(Applause)

I am a living witness! I put trust in an individual and, today, I am suffering!

(Laughter)

Let that be something of the past! Let there be leaders who have been legislated by institutions so that those institutions can protect the weak and the strong.

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

The Assistant Minister, Office of Deputy Prime Minister and Ministry of Trade (Mr. Omingo): Thank you, Madam Temporary Deputy Speaker, for giving me a chance to contribute to this Motion. First, I want to congratulate the Mover of this Motion and I think it is the best opportunity to say that and move on quickly.

From the outset, Madam Temporary Deputy Speaker, I want to start by supporting this great Motion.

(Applause)

Madam Temporary Deputy Speaker, Parliament has got three major functions. One of them is that we have to have a representation role where you are elected to come and speak on behalf of your people. Two, we are supposed to make laws, which we do everyday through Private Members Bills and the Government Bills. Most importantly, we require an oversight function. Unless we are worried too much about what we are doing ourselves, it is when anybody worth a leader will oppose this grand Motion. The critical thing that we need to do is to quickly move and be able to have a functioning Opposition, lest we become amorphous. We will not know our identity and we shall lose out on that oversight function because the Executive will be having the say without the Opposition. We strongly want to let Kenyans know that even if we are on this other side, which I believe we are by right, the Members of Parliament who are Backbenchers need to have their voice and this is the only window. We shall be selfish when we stop them from doing it. We require a strong Opposition for checks and balances!

Madam Temporary Deputy Speaker, I want to be checked by those who want to help me grow! A true friend is one who tells you where you have gone wrong as opposed to patting your back because you are just simply friends!

(Applause)

We want them to come objectively and correct the Government for the wellbeing of Kenyans.

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

Mr. Jirongo: Madam Temporary Deputy Speaker, let me take this opportunity to support this Motion. This country has witnessed some of the strangest happenings in its history. When we opened the year, this country almost went into a civil war. Today, we have opposing forces who recently formed the Grand Coalition. By coming up with a Grand Opposition, we do not want to oppose the Grand Coalition Government. We want to, first of all, ensure that, that Grand Coalition functions. We want the parties in the Grand Coalition to marry their manifestos and work on the reform agenda that they promised Kenyans. We want the Grand Coalition not to forget what happened yesterday.

We have heard Ministers of this Government talk in public as if they are Backbenchers. We do not want a Government that within itself has an Opposition. We want a Government that shall stick together and be responsible to the citizens of this country.

Madam Temporary Deputy Speaker, I want to take this opportunity to urge those in Government to allow this Motion to go through. All hon. Members should support this Motion, so that we embark on the reform agenda and deliver to Kenyans. Saying that this arrangement will be contradicting certain areas of the law like the so-called Muturi issue on political parties, that is a mere statute; it can be changed. Today, we have a law that governs the Grand Coalition that is in conflict with the entire Constitution. But because of the times we are living in, we are allowing it to function for the sake of this country moving forward; for the sake of this country being serious as a multiparty state. We want to urge all hon. Members to support this Motion so that we have a structured Opposition for this country.

Thank you.

The Temporary Deputy Speaker (Prof. Kamar): Yes, hon. Mungatana!

Hon. Members: Young Turk!

The Assistant Minister for Medical Services (Mr. Mungatana): Madam Temporary Deputy Speaker, I want to very quickly register my support very strongly to this Motion. Section 80 of the Constitution, says:-

"Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assemble and association, that is to say that his right to assemble freely, and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests."

Even God himself also sees the importance of having an Opposition because he has all the powers to destroy Satan. But he keeps him there because it is good to keep the people of God in check! It is good for the balance of this country. It is good for the nation to have people who can point out mistakes. Questions go here unanswered and there is no one to speak against that. In the last Parliament, Ministers would fail to attend sittings and sometimes nobody would point that out.

Madam Temporary Deputy Speaker, I am being told to finish. I, therefore, beg to support.

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. The mood of the House is very clear. Hon. Members are basically repeating themselves. Could the Mover be called upon to respond?

The Temporary Deputy Speaker (Prof. Kamar): The Minister will respond first.

The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua): Madam Temporary Deputy Speaker, the Mover cannot possibly respond before there is an official response unless it is lacking. Thank you for recognising that.

I want to begin by saying that there is absolutely nothing wrong to have a Bill regulating the Official Opposition. However---

(Loud consultations)

Madam Temporary Deputy Speaker, could you, please, protect me from Members who cannot have the courtesy to wait for me to have my say?

I want to refer to the Constitution which states, very clearly, in Section 1A that the Republic of Kenya shall be a multiparty democratic State. Actually, that presumes that, even in the House, there will be the Government and the Opposition. Our Standing Orders also presume that, at all times, there shall be the Government and the Official Opposition. So, what the Motion is seeking to do is not to introduce anything new, rather it is actually to regulate by statute a situation that is already present.

Madam Temporary Deputy Speaker, we have all agreed that we need very fundamental constitutional and legal reforms. We actually need an overhaul of the Constitution. So, what this Motion is seeking to do is in line with the general agreement on introducing fundamental changes in the way we do things. To that extent, I support the Motion.

(Applause)

However, it is necessary that we all internalise the provisions of our Constitution as it is now. When we passed the Constitution of Kenya (Amendment) Bill and the National Accord and Reconciliation Bill, which we entrenched in the Constitution by the constitutional amendment, we elevated the provisions of the National Accord to the Constitution. So, even if this Bill is introduced and passed because we cannot stop it from being introduced, until fundamental constitutional review or overhaul is done, it may not be possible for us to enjoy its provisions. It is necessary that we all understand that. Why do I say so? It is because the National Accord and Reconciliation Act which now enjoys constitutional status provides that the person to be named Prime Minister must command a majority in Parliament. One must command a majority. If the person fails to command a majority, then a coalition of parties commanding a majority.

The idea of a Grand Opposition at the moment, because I know the talk behind this Motion, is simply not tenable when we have a Grand Coalition. Neither one party which is currently having the majority; the ODM nor the PNU Coalition can actually have the constitutional status of occupying the office if all our Members or some of our Members are on one side forming a Grand Opposition. So, the Grand Opposition will actually be against the spirit of the National Accord. That is not to say that we cannot go ahead and prepare a Bill that will govern us in the next stage. Those two are different.

(Applause)

So, that is why I am supporting the move, but also putting it on record that it cannot be operational while the Grand Coalition, which we all unanimously passed, exists. We all supported the idea of the National Accord. Let us, therefore, move very cautiously. Why did we support the idea of the National Accord? I stood here to say that the clauses were sitting awkwardly in the

Constitution, but they were necessary and are still necessary. For us to cross the bridge and to bring the fundamental changes that we are seeking to bring; to be able to undertake constitutional review in 12 months; and to be able to undertake fundamental legal reforms, we still need to be together. Therefore, does that mean that we do not have an Opposition in Parliament? The Opposition is there and hon. Members are still interrogating Parliament. The only status that may not be acquired under the law at the moment is the status of Official Opposition. However, that does not mean that debate is curtailed. We still expect, as Members of the Executive, to be kept on our toes by a vibrant Back Bench.

"Mr. Speaker, Sir---" I cannot believe that I am saying "Mr. Speaker" instead of Madam Temporary Deputy Speaker. It is a slip of the tongue and we would want to see Madam Temporary Deputy Speaker sit there more often so that we get used to saying that. What is happening at the moment is that there is no Official Opposition in Parliament or the formalised Opposition is actually in operation. We have to admit that. It is not an ideal situation. That is why we all have to work hard to ensure that we reach the threshold we wanted, which is the overhaul of the Constitution so that we can usher in a new social order and say, never again shall we go through what we underwent and shall we be forced to consolidate ourselves so as to be with a House with a structured Opposition.

I want to admit that an Opposition is an absolute necessity. If we did not have challengers in our own respective constituencies, we can forget that we account to the people. We would actually not work hard. There will be no competition. The idea of competition in life is what puts the standards up. I want to appreciate, and I know the Government that I represent here today appreciates the absolute necessity for an Opposition in any Parliament. We simply cannot have a multiparty democracy where we do not have different voices speaking and, therefore, competing ideas that can help us raise the bar.

Madam Temporary Deputy Speaker, there is nothing much to say because as to what the Members have said, I find nothing disagreeable. I would only appreciate the contribution, but, again, re-emphasize that this noble idea, even the law, if it were to be passed, cannot operate in the circumstances we are in until our Constitution is overhauled. This is because of the National Accord and Reconciliation Act together with the Constitution of Kenya (Amendment) Bill, the status is that we cannot have our cake and eat it. We cannot have a Grand Opposition and a Grand Coalition Government. However, it is absolutely necessary that we prepare ourselves to continue growing our nascent democracy.

I beg to support with those reservations.

Mr. Namwamba: Madam Temporary Deputy Speaker, let me thank the Minister for her very pragmatic position, even though I would beg to disagree with her on the question of interpreting the National Accord and Reconciliation Act. I think anything that is either expressly or imputed in a law is subject to interpretation. However, all the interpretational issues will arise when we come to the details of the Bill. For now, let us admit that the Opposition cannot operate unless it is properly tunnelled. Nothing can, really operate unless it is properly focused.

Madam Temporary Deputy Speaker, Harry Emerson said: "No horse ever gets anywhere until it is harnessed. No steam or gas ever drives anything until it is confined." So, until we get this Opposition and jail it into a unit, we will not succeed. I want to tell hon. Members that even the Bible supports this position.

On that score, I beg to reply.

(Question put and agreed to)

The Temporary Deputy Speaker (Prof. Kamar): Next Order! Mr. Ethuro!

An hon. Member: Absent!

ESTABLISHMENT OF OFFICES OF THE
MINISTER OF GOVERNMENT OF KENYA

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, in the absence of Mr. Ethuro, and given the fact that we have only two minutes to go, we have to interrupt the business of the House. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.28 p.m.