

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 24th November, 2009

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### WELCOME O DELEGATION FROM SOUTHERN SUDAN LEGISLATURE

**Mr. Deputy Speaker:** Hon. Members, I wish to introduce to you, and welcome this afternoon, a delegation from the Southern Sudan Legislature who are seated at the Speaker's Row. They are:-

Hon. Dr. Richard K. Mulla, MP – Chairman and Team Leader

Hon. Lt. Marcho Chol Maciec, MP

Hon. Paulinjo Apiny Akol, MP

Hon. Oliver Mori Benjamin, MP

Hon. Dr. Toby Madut Parek, MP

Hon. Lucy Abba Sebastiano, MP

The delegation has been in the country since Sunday on a study visit on the modalities and successes in the implementation of the Constituencies Development Fund (CDF). During their stay, they will visit the CDF projects in some constituencies. They will also interact with some of our Committees, meet with hon. Members and officers of the National Assembly.

On behalf of the House, and on my behalf, I wish the delegation a happy stay in Kenya.

### PAPER LAID

The following Paper was laid on the Table:-

The Kenya Economic Report for the year 2009

*(By the Minister of State for Planning,  
National Development and Vision 2030)*

### NOTICE OF MOTION

ADOPTION OF 2009 KENYA ECONOMIC REPORT

**The Minister of State for Planning, National Development and Vision 2030**  
(Mr. Oparanya): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, this House adopts the Kenya Economic Report of 2009 laid  
on the Table of the House on Tuesday, 24<sup>th</sup> November, 2009.

### QUESTIONS BY PRIVATE NOTICE

#### DELAYED PAYMENT OF CENSUS DUES TO VILLAGE ELDERS/POLICE OFFICERS

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Planning, National Development and Vision 2030 the following Question by Private Notice.

(a) Is the Minister aware that in spite of his assurance to the public that all the persons who were involved in conducting the recently concluded census exercise would be paid, village elders and police officers are yet to receive their dues?

(b) How much were the elders and police officers supposed to be paid per day respectively, for the exercise?

(c) Can the Minister provide the list of village elders and police officers involved in the exercise, indicating against each name whether or not they have been paid?

**The Minister of State for Planning, National Development and Vision 2030**  
(Mr. Oparanya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that some of the people involved in the recently concluded census exercise have not been paid their dues. Elders from 80 out of the 158 districts constituted as at 31<sup>st</sup> December, 2008 have already been paid. However, elders from the remaining 80 districts have not been paid their dues due to some discrepancies in information received from the districts. These discrepancies include lists not being authenticated by the District Census Officials, lack of proper identification information and some lists not conforming to the circular on specific numbers allocated to respective districts. The process of paying the elders has been slow to forestall payment of non-*bona fide* personnel. Police officers who provided security during the census exercise will be paid their allowance after all the field census personnel have been paid.

(b) Each village elder involved in the exercise is being paid at the rate of Kshs400 per day for four days. This gives a total of Kshs1,600 per elder. In the case of police officers, officers in the rank of Inspector and above will be paid at the rate of Kshs1,800 per day for three days while officers below the rank of Inspector will be paid Kshs1,200 per day for three days. The payment will be made as soon as the field personnel and elders are paid. About 55,000 security officers were mobilized to provide security services during census exercise.

(c) I would like to lay on the Table the list of the village elders from 78 districts who have already been paid and another list of the remaining 80 districts who have not been paid.

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

However, I am awaiting a list of police officers who were engaged from the Ministry of State for Provincial Administration and Internal Security. I will provide it as soon as I get it.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, there have been demonstrations all over the country. I saw village elders demonstrating in Kisauni, Kiambu, Kitale and Trans Nzoia. I would like to know from the Minister whether the amount of Kshs400 had been communicated to the village elders before their services were engaged. Why is there a discrepancy between the village elders and other people who were involved in the exercise? This is because the village elders were only paid Kshs400 per day and yet the other officers were being paid Kshs1,800 per day. Why were village elders paid only Kshs400? Is that fair?

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, this particular information was communicated to the village elders before they were recruited. In fact, I remember issuing a Ministerial Statement in this House giving all categories of people who were to be recruited and details of their remuneration. Unfortunately, the village elders are being paid the lowest figure of Kshs400. The security officers are being paid in accordance with their ranks in the Civil Service.

**Mr. Letimalo:** Mr. Deputy Speaker, Sir, we know that the census exercise went on for more than four days. In fact, it went on for seven days, if not eight days. Why is the Minister paying village elders for four days and not seven days?

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, that is a very good question. As I have said, this particular information was communicated to the village elders before they were recruited. They were informed that they were going to work for eight days and not even seven days as alluded to by the hon. Member. However, because of the budget constraints, we had to cut the budget across the line. That is how we ended up paying them for four days.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, I would like the Minister to indicate to this House the extra measures he is putting in place to make sure that the required information is received by the Ministry to facilitate faster this payment.

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, I have stated clearly why there is a delay. I have clearly pointed out that we do not have any problem with 78 districts. We have already paid census officials in those districts. For the remaining 80 districts, we do not have adequate information. We have already formed a special committee to go out there, to those districts to see that we get the information as fast as possible, so that these particular officers or elders are paid. I expect to finalize this exercise by the end of December, before I officially announce the figures of the census for this year.

**Mr. Koech:** Mr. Deputy Speaker, Sir, the Minister has just confirmed here that the village elders were to work for eight days. However, he says because of budgetary constraints, they were paid for four days. Could he confirm that they were actually being paid Kshs200 per day for eight days?

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, it depends how the hon. Member is calculating. These people worked for eight days and they are being paid Kshs1,600. So, I can confirm they are being paid Kshs200 per day. But I want to confirm also that we agreed with the village elders that they will be paid for the first four days for Kshs400. So, when they were being engaged, they knew the terms of employment.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, it is very unfair for the Government to take advantage of people like village elders who are not being paid a salary. If he is aware that those elders worked for eight days and they are being paid for four days, why is the Ministry taking advantage by making them work for free for four days? Is it because there is no money? Why can the Minister not bring a supplementary Budget next year with that amount inside and this Parliament will approve it instead of taking advantage of people who cannot bargain?

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, I want to thank the Member of Parliament for that question. I have clearly said that we had a budget constraint, but if the Members of Parliament can assure me that I can bring a Supplementary Estimate, so that those elders can be paid for eight days, I am ready to do so.

**Mr. Mbadi:** On a point of order, Mr. Deputy Speaker, Sir. With that assurance, could the Ministry go ahead and pay them now because, normally, they overspend and then bring a Supplementary Budget here later?

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, I cannot spend what has not been approved. So, I promise I will bring it here. If you will approve, then the elders will be paid for the extra four days.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, this Government has been very unfair to these village elders they have actually not been paid for 46 years for their services. Even the services they rendered recently in August, up to now, they have not been paid. When is the Minister intending to pay the village elders and officers in the remaining 80 districts? He says he has not received a list from the Office of the President. How long will it take him to receive names from officers who are known from Harambee House? The census exercise was carried out in August. Surely, could he undertake that these officers and poor village elders who have worked for this Government for so many years will receive their dues, at least, before Christmas, so that they can have Christmas with their families.

**Mr. Oparanya:** Mr. Deputy Speaker, Sir, I know the Member of Parliament brought a Motion here on elders to be paid and it was passed. I hope that will be adopted in the next Budget. But as it is now, it is actually unfair not to pay these elders the remaining days.

I have assured Members of Parliament that I will try to make sure that they are paid. Unfortunately for security officers, this was co-ordinated by the Ministry of State for Provincial Administration and Internal Security. This Question was received in my office on Thursday last week. So, we could not get a list of the 55,000 security officers who were involved. This was a countrywide exercise, but I promise to avail the list to the hon. Members as soon as I get it.

ENCROACHMENT ON GITHURAI MARKET  
DURING NAIROBI-THIKA ROAD EXPANSION

**Mr. Thuo:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads the following Questions by Private Notice.

(a) Is the Minister aware that the expansion of the Nairobi-Thika Road will encroach on the entire Githurai Market, thus putting at stake the livelihoods of more than

3,000 small-scale business people with attendant adverse costs that will impact on their families?

(b) Taking into account the Government policies to create employment in order to sustain the needs of the populace, could the Government consider using the Land Acquisition Fund to secure alternative land for these people to set up another market?

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I just would like to draw the attention of the Chair to the fact that hon. Thuo is the Leader of Government Business in this House---

**Mr. Deputy Speaker:** Order! The Chair is conscious of what you intend to say and you have already said it, that he is the Leader of Government Business and whether it is right for the Leader of the Government Business to ask a Question. Hon. Thuo is the Chief Whip.

You could even ask how the Chair or the Speaker or Deputy Speaker can become the Chairman of House Business Committee. Parliamentary Business is strictly, by and large, Government Business. The Chair has no business chairing Parliamentary Business. We have had a unique situation. That is not to say that hon. Thuo will forego his own responsibility as the Member of Parliament for Juja Constituency. Indeed, that is what he is executing now.

Proceed, hon. Thuo!

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I thank you for the advice. But maybe you will be interested to know that I am almost aware that at the Treasury, the status of hon. Thuo has been elevated by way of his emoluments. His status is now equal to that of a Government Minister.

That being the case, therefore, means that this is a Minister *de facto*. Under this Standing Order, do you believe that a Minister *de facto* should ask a Question in this House?

**Mr. Deputy Speaker:** A Minister *de facto* for which Ministry? He is a not a defacto Minister, but the Chief Whip of the Government. Even with the changes of the Constitution and it will be reflected in the Standing Orders, hon. Thuo, for all practical purposes as well as official purposes, is the Member of Parliament for Juja Constituency. Secondly, he is the Chief whip of the Government. Chief Whips of the Government are also Members of Parliament and they have the right to ask Questions.

Proceed, Mr. Minister!

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

(a) The expansion of the Nairobi–Thika Road has not encroached on the entire Githurai Market. Farmers and informal traders have encroached on the road reserve and my Ministry is liaising with the local authority to ensure that they are removed to facilitate construction.

(b) While I sympathize with the sentiments expressed by the hon. Member, my Ministry is not responsible for securing alternative land for use as a market by the traders.

**Mr. Thuo:** Mr. Deputy Speaker, Sir, I am both astonished and dismayed by this particular answer.

If you indulge me, on the first part of the Question that relates to putting out of business 3,000 small scale traders, I think it is very casual to wish away the problem by saying that they encroached on the road. We know that every little business in Kenya

should be cherished and, indeed, nurtured if we are going to create an environment in which mass unemployment is reduced.

Mr. Deputy Speaker, Sir, I demand that the Assistant Minister just responds comprehensively on what they intend to do about these traders even as we welcome the expansion of Thika Road and its attendant benefits.

May I also seek your guidance? One of the problems with the current arrangement is that when I first framed this Question, I framed it knowing that it will involve several Ministries and having sent it to the Office of the Prime Minister, it was referred back to this Ministry. In his answer, he has answered for the Ministry of Roads, he has referred to the Ministry of Local Government and, towards the end under part “b” of the Question, he has referred to another Ministry responsible for securing land. Therefore, I assume it is the Ministry of Lands.

Is he in a position to adequately address my issue?

**Mr. Deputy Speaker:** Hon. Assistant Minister, if you feel that you cannot adequately address this issue, then I think it is only fair that you communicate within the Government itself. But if you feel that you can adequately address the Question and its concerns – you have collective responsibility – then you should proceed and do that!

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I will be able to answer to the extent that it relates to the Ministry of Roads.

**Mr. Deputy Speaker:** Order! Order! That is not in order! You have collective responsibility as a Government, but if you feel that you cannot adequately address this Question in your own Ministry, then refer it to the Prime Minister’s Office and communicate the same both to the Chair as well as to the hon. Questioner himself! So, under the circumstances---

**Mr. Mwangi:** On a point of order, Mr. Deputy Speaker, Sir. The Question by Mr. Thuo cuts across the three Ministries. Is the Assistant Minister in order not to refer this Question to the Prime Minister’s Office?

**Mr. Deputy Speaker:** Order! Order! You are out of order!

Hon. Assistant Minister, proceed, please!

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, we have communication from Ruiru County Council that relates to the particular market in question, where the Ministry had requested the Council to find alternative land for the hawkers so that the construction will be done. The County Council actually confirmed and we have a letter to that effect.

However, the relocation of hawkers and many other people who have encroached on the roads is done in accordance with Government regulations.

**Mr. Thuo:** On a point of order, Mr. Deputy Speaker, Sir. Is he in order to refer to what I have referred to as businesses as “hawkers”? I am not suggesting that hawkers are not businesses, but the connotation when you say “hawker” presupposes people who are in transit. These are permanently settled people in the area!

**Mr. Deputy Speaker:** Actually the term “hawker” essentially refers to people who do not have one fixed place. A hawker is somebody who moves from place to place, unless you have changed the meaning of that English word.

**Mr. Kinyanjui:** Thank you, Mr. Deputy Speaker, Sir, for saving me. But I think the point that we want to put forward is that it is not the road that is encroaching on the market; it is the market that has encroached on the road reserve and we have actually written to the Municipal Council and specifically requested that, that be done. The

responsibility of allocating land for markets lies with the Ministry of Local Government and we would be very happy if that question is directed to the relevant Ministry.

Thank you.

**Mr. Thuo:** Mr. Deputy Speaker, Sir, the point that the people who are in the market are on the road reserve is conceded and, indeed, I did concede that point in framing my Question.

However, I feel that we still need to address one issue. In a country of mass unemployment, you do not go and say: "Because you have done this, therefore, you ought not to be and to hell with your business!"

I am urging him to be broader in scope and to understand that he is dealing with Kenyans, irrespective of the historical encroachment.

**Mr. Deputy Speaker:** What is your question?

**Mr. Thuo:** Mr. Deputy Speaker, Sir, I am very clear; my question is for him to be broader in his perspective as he responds and to consider that these are Kenyans!

**Mr. Deputy Speaker:** That is not a question. What is your question?

**Mr. Thuo:** Mr. Deputy Speaker, Sir, will he be that broad?

*(Laughter)*

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I do not think that is a question. He is basically saying that he wants me to be broader and that is up to him to judge whether what I have said is broad enough.

I think the issue of the informal traders is not specific to Githurai or to that particular road, and our policy cannot be made just for one particular place. We have a policy; that all land that belongs to the Government and is a road reserve should be cleared to give way for development. We do not have one particular policy for only one place.

In this particular case, we sympathize with the people and the traders and urge the hon. Member to work with the Ministry of Local Government to find alternative land for these informal traders.

**Mr. Deputy Speaker:** Ask your last question, Mr. Thuo!

**Mr. Thuo:** Thank you, Mr. Deputy Speaker, Sir. I am happy.

**Mr. Deputy Speaker:** Next Question, hon. Mbugua!

IDENTIFICATION OF LAND FOR RESETTLEMENT  
OF 2007 POST ELECTION VIOLENCE IDPS

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Can the Minister confirm that land to settle Internally Displaced Persons (IDPs) who were displaced during the 2007 Post-Election Violence has been identified, and if so, could he table the names of the landowners and the location of the land?

(b) How much money has been budgeted in the Ministry's current budget for purchase of the said land and when does he intend to complete this process?

**The Minister for Lands** (Mr. Orengo): Mr. Deputy Speaker, Sir, I have talked to my friend, hon. Mbugua, to be given a little more time. This is a very serious Question. I was compiling some of the data that he requires. I was not quite satisfied with the answers that I had been given. So, I asked for his indulgence that I answer this Question on Thursday afternoon.

It is a Question by Private Notice and it is a very important Question.

**Mr. Deputy Speaker:** Is that acceptable to you, hon. Mbugua, so that you can get, probably, a more adequate answer?

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, this is a very important Question that touches on livelihoods and lives of people and I do agree with the Minister that we get a very comprehensive answer.

**Mr. Deputy Speaker:** That is fair enough! The Chair directs that this Question appears on the Order Paper on Thursday afternoon!

*(Question deferred)*

## ORAL ANSWERS TO QUESTIONS

### *Question No.362*

#### DETAILS OF SURPLUS COLLECTIONS/INTEREST INCOME OF FUEL LEVY FUNDS

**Mr. Deputy Speaker:** Is hon. Moses Lessonet, by any chance, out of the country on official parliamentary Business?

**An hon. Member:** He is around!

**Mr. Deputy Speaker:** Under the circumstances, his Question is dropped!

*(Question dropped)*

### *Question No.373*

#### TABLING OF PROTOCOL ON CATTLE RUSTLING IN EAST AFRICA

**Mr. Deputy Speaker:** Is hon. Ethuro here? Is hon. Ethuro, by any chance, out of the country on official parliamentary Business?

*(Mr. Deputy Speaker consulted the Clerk-At-The-Table)*

I am made to understand that the Committee in which hon. Ethuro serves is out of the country. Under the circumstances, the Question will be put on the Order Paper until such a time that hon. Ethuro will be in a position to ask it.

*(Question deferred)*



*Question No.376*SHORTAGE OF TEACHERS IN SUBA  
PRIMARY SCHOOLS

**Mr. Pesa** asked the Minister for Education:-

(a) whether he could confirm that primary schools in Suba West and Suba East divisions of Migori Constituency suffer serious understaffing due to hardship in the area;

(b) whether he could table a staffing list per school in Suba West and Suba East divisions in Migori District; and,

(c) when the Minister will, in conjunction with the Minister of State for Public Service, declare Suba West a hardship area so that teachers and other civil servants can be paid hardship allowance and be retained in the region.

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

(a) I wish to confirm that there is a shortfall of 150 teachers in Suba East and 209 in Suba West divisions. However, the shortage is not as a result of hardship in the area. Indeed, understaffing in our schools has been a serious national problem. There are slight disparities across the regions and so Suba East and Suba West cases are not unique. This is a problem across the country.

(b) A staffing list per school in Suba West and Suba East divisions of Migori Constituency is appended to the answer. The hon. Member has the list already.

(c) According to the list reviewed and released recently by the Government, Migori District has not been designated as a hardship area. Teachers working in the two mentioned divisions cannot be paid hardship allowance.

**Mr. Pesa:** On a point of order, Mr. Deputy Speaker, Sir. I need your guidance with regard to the answer that has been given by the Assistant Minister. Last week, the same answer was given to me. When the Minister rose to answer this Question that time, he said that the answer he had was not adequate. Today, the Assistant Minister has read the same answer. What has happened?

**Mr. Deputy Speaker:** Hon. Assistant Minister, is it true that you had asked for some more time because you felt that the answer was not adequate? Is it also true that the answer you have now is the answer you had then?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I am not aware of that; at least for me.

**Mr. Deputy Speaker:** Order, Prof. Olweny! You have a collective responsibility as a Ministry. Indeed, if it turns out that you are misleading the House, then I think you understand the consequences as per the Standing Orders. Would you wish to go and consult with your colleagues before you give such a position you cannot be categorical about right now?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, part (a) of the Question seeks to know if the Minister could confirm that the primary schools in the two divisions suffer from serious understaffing due to hardship in the area. In our answer, we have indicated that the two divisions do not fall under hardship areas which were enlisted recently by the Government.

In part “b” of his Question, the hon. Member asked us to table a list. We have given him a full list. If there are schools in his constituency which are not in the list, let him tell the House.

In part “c” of the Question, he asked when the Minister, in conjunction with the Minister of State for Public Service, will declare Suba West a hardship area. Now, Suba West was not declared a hardship area and the data available is just two months old. If the answers I have given do not answer his Question, let me know.

**Mr. Mungatana:** Mr. Deputy Speaker, Sir, I was going to plead with the Assistant Minister to be fair to Mr. Pesa. If the first time he said that this answer was not sufficient, it is okay. We could wait so that he brings a more sufficient answer. On the face of it, part “c” of the Question seeks to know when the Minister, in conjunction with the Minister of State for Public Service, will declare Suba West a hardship area so that teachers and other civil servants can be paid hardship allowance and be retained in the region. All the Assistant Minister has done is to issue a list and state that Suba West Division has not been declared a hardship area. The Question is about when. We would not mind the Assistant Minister coming back to answer this Question next week. Let us be fair.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I am not going to mislead the House by saying that in conjunction with the other Ministry, we are going to enlist Suba as a hardship area. If it is a question of enlisting Suba as a hardship area, there is a Ministry that is concerned with that. The Ministry of State for Public Service offers its service across the board and not for teachers only.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister should be found to be out of order. This is because he not only comes from Nyanza Province, but he is also aware that Nyatike Constituency is classified as a hardship area. Now, the ecosystem in Nyatike is exactly the same as that one in Suba West and Suba East divisions. Is he in order to mislead the House?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I am not misleading the House. Let me read to the hon. Members the criteria that the Ministry of State for Public Service uses when classifying various parts of this country as hardship or non-hardship. If you allow me, I will read the criteria.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members seated on the Front Bench! Order, Maj-Gen. Nkaiserry! Could you, please, consult in low tones so that the Assistant Minister is heard?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, I am requesting you to allow me to read the criteria so that hon. Members can take note of it.

**Mr. Deputy Speaker:** Proceed!

**Prof. Olweny:** Mr. Deputy Speaker, Sir, the criteria is as follows:

- (i) Non-availability and accessibility of food.
- (ii) Non-availability or limited access to portable water.
- (iii) Inadequate transport and communications services.
- (iv) Limited availability of basic social services and amenities.
- (v) Harsh climatic conditions.

- (vi) Insecurity and high possibility of security threats.
- (vii) Use of poverty indices.

So, they use all these factors to give scores to areas. It is based on those scores that they classify an area as hardship or not. Actually, teachers in my constituency used to get hardship allowance, but it was removed. I went to the Minister in charge and he told me that according to the data given to him by the experts, my constituency does not fall into that category any more. That means that the Minister used data that was computed by experts in this country.

**Mr. Pesa:** On a point of order, Mr. Deputy Speaker, Sir. I need your guidance. The Minister who spoke here last week was doing so on behalf of the Ministry. He stated very clearly that he was going to look for a better answer than what he had been given on that day. Today, the Assistant Minister has brought the same answer his colleague rejected before this House. Could I, please, get your guidance, Mr. Deputy Speaker, Sir?

**Mr. Deputy Speaker:** If the Minister, indeed, felt that the Question was not adequately answered, and the same Ministry comes back to say that we cannot have any more adequate answers than what we have now, the Chair has no business directing them to go back and bring more adequate answers. This is the role of the Government itself.

**Mr. Koech:** On a point of Order, Mr. Deputy Speaker, Sir. If you read the Question carefully, part (c) is asking when the Ministry will work with the partner Ministry. This is a case that is affecting the Ministry of Education. Teachers are running away from the area because of hardship and yet the Assistant Minister is avoiding to answer the Question. Is he in order to refuse to answer the Question he has been asked?

**Mr. Deputy Speaker:** Order! Order! There is a Ministry that is mandated to determine what a hardship area is and what a hardship area is not. If the hon. Member wishes to ask a Question based on the criteria that is essentially public knowledge, and feels that, indeed, Migori Constituency has to be a hardship area, it is then for him to ask that Question to the relevant Ministry. He should not ask: "When will the Assistant Minister go and consult with the other Minister?" That, in itself, has a problem. If the Assistant Minister tells you: "As far as the other questions are concerned, that is not my business", he has answered adequately. In this case, I am inclined to believe that he has answered the Question. If you, indeed, feel that there is more that needs to be done for Migori Constituency, put a Question to the appropriate Ministry.

Mr. Pesa, could you ask the last supplementary question?

**Mr. Pesa:** Mr. Deputy Speaker, Sir, given your ruling, I will have to wait and put another Question to the relevant Ministry.

Thank you.

**Mr. Deputy Speaker:** Next Question, Mr. C. Kilonzo!

#### *Question No.400*

#### LIST OF PROJECTS NOT IMPLEMENTED IN 2008/2009

**Mr. Deputy Speaker:** Is Mr. C. Kilonzo, by any chance, out of the country on parliamentary business?

*(Mr. Deputy Speaker consulted the Clerk-at-the-Table)*

Hon. Members, the information available with the Office of the Clerk of the National Assembly is that Mr. C. Kilonzo should be here. Therefore, the Question is dropped!

*(Question dropped)*

*Question No.425*

#### STATUS OF JIGGER INFESTATION IN KENYA

**Dr. Otichilo** asked the Minister for Public Health and Sanitation:-

- (a) what the current status of jigger infestation problem in Kenya is, and which areas are most affected; and,
- (b) what general measures, including policy, the Ministry has taken to address this problem in the country and in Emuhaya District in particular.

**The Assistant Minister for Public Health and Sanitation** (Dr. Gesami): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The jigger infestation prevalence in the country ranges from 1.6 per cent to 4 per cent, according to information from a rapid assessment study carried out recently. The main predisposing factors for jigger infestation are:-

- (i) poor housing conditions as the jigger flea is raised mostly in a very dusty environment;
- (ii) poor personal hygiene practices; and,
- (iii) high poverty levels.

The most affected areas in Kenya are the larger Murang'a and Nyeri districts in Central Province; Kwale and Malindi districts in Coast Province; the larger Kericho and Narok districts in Rift Valley Province; and Vihiga and Emuhaya, and the larger Kakamega District of Western Province. However, it should be noted that there are reports of isolated cases in all other parts of the country.

(b) My Ministry has put measures in place to address the problem in the country, and in Emuhaya District in particular, as follows:-

In the last financial year, the Ministry undertook the following-

- (i) purchased and distributed chemicals and other commodities worth Kshs10 million to all provinces in the country, for jigger control;
- (ii) sprayed 90 per cent of households affected in Murang'a North, Murang'a South and Kericho Districts to reduce jigger flees.
- (iii) public health officers have intensified public awareness education focused on the following areas:-
  - (a) improved housing by smoothening walls and floor surfaces;
  - (b) observation of high standard of personal hygiene;
  - (c) spraying of houses and pets to kill flees;
  - (d) use of detergents to de-infest the parasites; and,

(e) physical removal with sterile pin and use of flame or detergent solution to treat those who are infected.

These achievements have been made possible through partnership and collaboration with various stakeholders such as Ahadi Trust Fund.

In the current financial year, my Ministry has set aside Kshs10 million for purchase of chemicals and other disinfectants for the exercise.

Mr. Deputy Speaker, Sir, it should be noted that jigger control is amongst the activities for appraisal in the performance of the Ministry, particularly the Permanent Secretary.

In 15 priority districts, the Ministry has identified households for spraying and fumigation as a means of controlling jigger infestation. The process of spraying and fumigation has started. In Emuhaya Constituency, the Ministry has already dispatched adequate supplies of disinfectants and other chemicals for control and treatment of those affected by jiggers.

In addition, public health officers have embarked on an intensive health education campaign to create awareness among members of the public on the control measures.

Thank you, Mr. Deputy Speaker, Sir.

**Dr. Otichilo:** Mr. Deputy Speaker, Sir, first of all, I would like to take this opportunity to thank the Ministry for the comprehensive answer it has given, and for the programmes it has put in place to eradicate this problem. However, I would like to know what long-term programmes the Ministry has in place, or it contemplates to put in place, to address the jigger menace in the country and, particularly in the affected areas like Emuhaya Constituency?

**Dr. Gesami:** Mr. Deputy Speaker, Sir, as you probably know, the jigger infestation problem used to be there before Independence, when the levels of poverty were very high. For quite a number of years, there have been no jiggers in Kenya until quite recently. We need to address the social determinants of disease; in other words, things like housing and poverty eradication. We already have policies in place to eradicate poverty and address the housing issue. These are the long-term policies that will prevent jigger infestation. In the short-term, we want to eliminate jiggers by spraying and applying the measures that we have stipulated, including dissemination of health education.

**Mr. Wambugu:** Mr. Deputy Speaker, Sir, I come from an area that has been mentioned many times in terms of the jigger problem. It is because of poor health conditions in those areas that we have the jigger problem. It is mainly because of lack of water. What is the Ministry of Public Health and Sanitation, in collaboration with the Ministry of Water and Irrigation, doing to provide water in schools and areas that are affected by jiggers?

**Dr. Gesami:** Mr. Deputy Speaker, Sir, I have already indicated that we must address the social determinants of disease. Some of the factors that lead to poor health are, of course, lack of water, malnutrition and improper housing. I have said that we already have policies in place to address these issues. The only way we can eliminate some of these diseases is to address the relevant issues like water, housing and eradicate poverty. Otherwise, we shall only be treating symptoms.

We, as Government, shall work together to ensure that we look into the housing aspect, water supply and the issue of eradication of poverty. We must work together to eradicate these social disease determinants.

**Mr. Mungatana:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to interrogate this matter.

I am very happy with the answer that the Assistant Minister has given us; that, in fact, the Ministry has set aside about Kshs10 million to deal with this problem. What disciplinary measures will he take against a certain medical officer – I believe it was a Provincial Medical Officer of Health – who was quoted widely by the media as having said that Ahadi Trust was whipping up public sympathy with the aim of collecting money, and that they had been paid Kshs10 million? It is clear that this money had, in fact, been provided by the Ministry.

Secondly, why has the Ministry only identified Kwale and Malindi districts as areas affected by this problem in Coast Province when we know that even in the lower Tana Delta District, Garsen Constituency, this problem persists? What will he do to include Garsen Constituency in his programme?

**Dr. Gesami:** Mr. Deputy Speaker, Sir, I am learning about this officer from Mr. Mungatana. I will try to investigate and take action on the officer. The few districts I have mentioned in my answer are not the only affected areas in the country. Even in my own constituency, we have patches of jigger infested areas. We are trying as a Ministry to cover the entire country and eliminate this menace.

**Mr. Deputy Speaker:** Dr. Otichilo, last question!

**Dr. Otichilo:** Mr. Deputy Speaker, Sir, what quantities of disinfectants and chemicals have been dispatched to Emuhaya District to control jiggers?

**Dr. Gesami:** Mr. Deputy Speaker, Sir, by 9<sup>th</sup> November 2009, we had sent 600 kilogrammes of cabrile (?) which is a chemical for spraying jiggers to Western Province. We sent 200 kilogrammes to Emuhaya District, 200 kilogrammes to Kakamega East District and we also sent 200 kilogrammes to the provincial stock. This gives a total of 600 kilogrammes.

We have also sent 100 kilogrammes of another chemical known as Propax to Emuhaya District, 100 kilogrammes to Kakamega East District and 100 kilogrammes for the provincial stock. We also sent 2x20 litres of natural pyrethroids to Emuhaya and Kakamega East districts. The provincial stock is also 2x20 litres. We have also sent five spray pumps each, to Emuhaya and Kakamega East districts and the provincial stock.

**Mr. Deputy Speaker:** Next Question by Mr. Fred Outa!

*Question No.443*

UTILIZATION OF FAO GRANTS IN  
WEST KANO/AHERO  
IRRIGATION SCHEMES

**Mr. Outa** asked the Minister for Water and Irrigation:-

(a) to explain how the FAO grants to West Kano and Ahero  
Irrigation

Schemes worth Kshs.25 million each (totaling to Kshs.50 million) was utilized;

(b) to table the names of all the beneficiaries of the grant; and,

(c) why the money was not given directly to the respective farmers' cooperatives for proper accountability.

Mr. Deputy Speaker, Sir, I have just received the written response from the Minister and I am not satisfied.

**Mr. Deputy Speaker:** Do you still intend---

**Mr. Outa:** Mr. Deputy Speaker, Sir, I still intend to study the answers because I am not satisfied.

**Mr. Deputy Speaker:** So, you do not want the Question to be answered today?

**Mr. Outa:** Mr. Deputy Speaker, Sir, I do not want the Question to be answered today.

**Mr. Deputy Speaker:** Mr. Assistant Minister, is it true that the hon. Member just received the written response a few minutes ago?

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, he might have received the written response right now, but it has two sentences. The rest is a table. All he has to look at is the answer given. I think it is not fair for the Member to say that he is not prepared to ask supplementary questions which I believe is not based on what is there.

**Mr. Outa:** Mr. Deputy Speaker, Sir, the table that the Assistant Minister has provided needs verification.

**Mr. Deputy Speaker:** Order! Do not go into the content! Do you want to ask the Question or you want this Question---

**Mr. Outa:** I do not want to ask the Question because I feel he has not provided an adequate answer.

**Mr. Deputy Speaker:** Under the circumstances, the Chair directs that this Question appears on the Order Paper tomorrow afternoon.

Mr. Assistant Minister, you have to give Members of Parliament adequate time to acquaint themselves with the content of the answers so that they can adequately prosecute it!

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, if I am so ordered, I will do exactly that.

*(Question deferred)*

Next Order!

## POINTS OF ORDER

### CHOLERA OUTBREAK AT KAMITI PRISON

**Mrs. Noor:** Mr. Deputy Speaker, Sir, I seek a Ministerial Statement from the Vice-President and Minister for Home Affairs on the situation at Kamiti Maximum Prison, following the outbreak of cholera and death in the facility.

Further, I would like to know, so far, how many inmates have lost their lives, how many are in serious condition and what is the root cause of the outbreak?

**Mr. Deputy Speaker:** The Vice-President and Minister for Home Affairs is not in! Could a senior Minister take an undertaking on his behalf?

Prof. George Saitoti, as part of your collective responsibility, when are we going to have the Ministerial Statement?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, in the sense that the substantive Minister on this matter is not here, I would like to give the undertaking that he will give that Statement within this week.

**Mr. Deputy Speaker:** When? This is an outbreak of cholera!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Well, that has to be by Thursday, Mr. Deputy Speaker, Sir. Hopefully tomorrow, but at the latest, Thursday.

**Mr. Deputy Speaker:** Tomorrow afternoon! The Chair directs so!

#### RISING INSECURITY IN THE COUNTRY

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. I asked for a Ministerial Statement on the 11<sup>th</sup> of this month. The Chair directed that the Minister in charge of internal security gives that Statement last week on Thursday. I was away on an errand for Parliament. Today, I see the Minister is here, I do not know whether he is ready to give that Statement.

**Mr. Deputy Speaker:** What was the subject of that Statement?

**Ms. Karua:** Mr. Deputy Speaker, Sir, the Statement was on the killing along the Nairobi streets of one Njuguna Gitau and the general insecurity in the country, including the murder of very many young men, especially from the Mt. Kenya region.

**Mr. Deputy Speaker:** Minister, are you ready with the Ministerial Statement?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I am ready to give the Statement. However, before I do so, I want to clarify one thing.

**Mr. Deputy Speaker:** If you are not ready, could you allow other Members to seek Ministerial Statements and then you will give it later?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I am ready. I just wanted to clarify one thing.

**Mr. Deputy Speaker:** Please, proceed!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, this is as to whether I should proceed before you give me clearance. On Thursday, I was supposed to have been here to answer Questions but previously, I had informed you of the fact that I was going---

**Mr. Deputy Speaker:** Order! Minister, the Chair indeed did sanction you and barred you from transacting any business in here, pending your adequate explanation on your absence. That was the total absence of you and your Assistant Ministers to answer Questions last time. To the best of my recollection, you have not approached the Chair to explain yourself. You are still under sanctions! So, you are not allowed to transact any business for now.



**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I wanted to give an apology because there is a small misunderstanding.

**Mr. Deputy Speaker:** Order! The simple tradition is that you approach the Chair privately, explain yourself adequately and the Chair decides and determines on that.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I will do so but you remember that on Thursday, I approached you and informed you that I was going to attend a meeting of the pastoralist communities because of the critical situation obtaining in Isiolo and you agreed.

DISTRIBUTION OF COPIES OF HARMONIZED  
DRAFT CONSTITUTION

**Mr. Mungatana:** On a point of order, Mr. Deputy Speaker, Sir. Thank you for giving me the opportunity to request for a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the following:-

Can the Minister explain to the country how many copies of the Harmonized Draft Constitution have so far been distributed around the country? Secondly, how many have been produced and thirdly, what is the structure of distribution of those copies? And whether Kenyans in the grassroots are going to get these copies and when that will happen. Can he also explain when Kenyans, particularly in the area that I come from, the Tana Delta, Lamu, Malindi, and Magarini areas, will receive these copies? I am also told about Rangwe and other areas.

Mr. Deputy Speaker, Sir, actually, the nation needs them. When are we going to get the Draft Copies and what arrangements has he made and what mechanism is there to ensure that they reach the grassroots?

**Mr. Deputy Speaker:** Minister for Justice, National Cohesion and Constitutional Affairs! He is not in? The hon. Deputy Prime Minister, can you give an undertaking on that very important request?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Thank you Mr. Deputy Speaker, Sir; we will undertake to see if I will get the Minister to bring an answer by Tuesday next week.

**Mr. Deputy Speaker:** For the purpose of Parliament itself, copies are available for the use of MPs in Room No.8. What is your point of order Mr. Olago Aluoch?

**Mr. Olago:** On a point of order, Mr. Deputy Speaker. The issue that has been raised by Mr. Mungatana is very serious, because time is ticking away. Already, one week is gone, and Kenyans have only three weeks left; so, the point of order should be answered even tomorrow, not next week.

**Mr. Deputy Speaker:** Mr. Deputy Prime Minister, the urgency of the matter is such that it has to be given urgent attention. When are we going to have that Ministerial Statement?

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I am only trying to be practical that, I will try on Thursday, but I beg your indulgence in case the Minister needs time that he be given until Tuesday; but we will try and see if we can give it by Thursday.

**Mr. Ogindo:** Mr. Deputy Speaker, Sir, the hon. Mungatana is asking for a Ministerial Statement and not for the distribution of the copies. The Statement can come as early as tomorrow.

**Mr. Deputy Speaker:** Hon. Deputy Prime Minister, the Chair is actually convinced that you could give an undertaking even now; it is just a question of how soon you are going to distribute these copies. It is an important historical matter itself!

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): The Minister will be here tomorrow.

**Mr. Deputy Speaker:** The Ministerial Statement will be available tomorrow afternoon. It is so directed.

ANONYMOUS THREATENING MESSAGES TO HON. IMANYARA  
AND HIS PERSONAL ASSISTANT

**Mr. Imanyara:** Mr. On a point of order, Mr. Deputy Speaker, Sir. I rise to seek your clarification on a serious matter touching on my personal security.

*(Loud consultations)*

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

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, yesterday at about 8.30 a.m., in the morning, my Personal Assistant, whose particulars are with the Clerk of the National Assembly, because he is a staff member, received a text message. He was in a matatu, coming from Kirinyaga--- He comes from hon. Karua's constituency.

**Mr. Deputy Speaker:** Get close to the microphone, so that everybody will be able to hear you.

**Mr. Imanyara:** Yesterday at about 8.30 a.m., in the morning, my Personal Assistant whose particulars are with the Clerk, because he is a staff member, received a text message. He was in a matatu coming from Kirinyaga--- He comes from Ms. Karua's constituency. He said as follows: "I am in a matatu to the office and I have received a text message threatening me. I am scared. what do I do?" I immediately asked him to forward to me that text message, and that message said as follows:

" Tell Gitobu Imanyara that he will not go far. We are closely watching him. You are too young to associate with people whose days are numbered. He thinks he can stop Muite; do you want to start counting your days also? Stop or your family will miss you."

Mr. Deputy Speaker, Sir, he was in a matatu; I told him to get into the nearest taxi as soon as he got one and come to Parliament where I was in my office. He did exactly that; I drove him to CID headquarters and on the way to CID headquarters, I also telephoned the Commissioner of Police, and they both asked me to go to the CID Headquarters. I went there and made the report; I gave the telephone number where that message had come from; it was a Zain number, and we finished that at around noon.

As we were going out of the CID Headquarters, and while I was waiting for my driver outside the CID Headquarters, I received no less than seven calls, all anonymous, one of them purporting to originate from the United Arab Emirates Republic, telling me

that the CID Headquarters was not going to help me, and that my days, and those of other MPs who were messing the politics of Mount Kenya region, were numbered.

Mr. Deputy Speaker, Sir, I immediately called back the officer who had recorded the statement, and I pointed out this to him. He told me that it was a Zain number, and they were going to get the particulars before the end of the day. The day ended. This morning, I telephoned the same officer and he said the letter had been done to Zain and it was supposed to be signed by the CID Director. But by this morning, not only had the letter not been signed but it had not been dispatched.

In these circumstances I wish to get your clarification, because it is not the first time that I have stood in this House to raise issues concerning the personal health of myself and other members of parliament, particularly where there are no serious steps being taken. In circumstances where even Ministers stood up in this House to give certain assurances and we have not seen any action on those assurances.

Mr. Deputy Speaker, Sir, or are they waiting until we are killed before they start investigations? Could you give certain clarification so that I know how to proceed on this matter?

**Mr. Deputy Speaker:** Order! Hon. Members, indeed, the Chair takes a very serious note of the lives and personal security of Members of Parliament, their families and, indeed, all Kenyans. The Chair is also conscious of the fact that hon. Imanyara has stood up on the Floor of the House on a number of occasions on similar threats. The primary role and responsibility of a Government is, first and foremost, to protect the lives and property of its own citizens. I would expect the Minister to give a very firm undertaking here and tell the House how soon he will be able to come back to the House and tell us how far he has gone in protecting the lives of Members of Parliament. Indeed, when the Chair says that, it believes that there is a serious threat to the life of a hon. Member, and goes ahead to direct the Minister responsible to give additional security, it is only fair that he goes ahead and gives that additional security.

The Chair is also conscious of the fact that we have lost Members of Parliament in the past. Indeed, the life of a Member of Parliament is as important as the lives of all of us here gathered, to lead this country in the very important role of lawmaking, as a supreme body and organ.

Hon. Minister, the Chair expects you to make a Statement right now and tell us how far you have gone and give the adequate undertaking. The Chair will expect also, adequate action on the part of your Ministry on the same.

**Mr. Waititu:** On a point of order, Mr. Deputy Speaker, Sir. The *Kwekwe* Squad has resumed its work. About three weeks ago, they took away some boys from my constituency and they have never been found. Those people are well known and I just wonder why this issue cannot come to an end. The people are aware that executions are happening in my constituency. In fact, I get information every time they come to my constituency. I have even been disappearing in the City because I also fear that those people can come for me.

Mr. Deputy Speaker, Sir, why can they not know that, that formula cannot work? That thing has gone on for about three years.

**Mr. Deputy Speaker:** You have made your point, hon. Member!

**Mr. Waititu:** Mr. Deputy Speaker, Sir, why can the Minister not see that the formula of elimination is not working in Central Kenya and change the tactics? They can

punish the boys in another way but not by taking their lives. That is ungodly. It is a sin before God and man.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, there are two issues here. The first one is about the security of Members of Parliament. I want to say here unequivocally, that this is a matter that is very serious. I do recall, indeed, that hon. Martha Karua wrote to me expressing fear for her security. It is, indeed, true that similar sentiments were expressed right here by hon. Imanyara. As soon as that was done, I directed the Commissioner of Police to ensure that adequate security is provided to Members of Parliament who are worried about their lives. To the extent that now I am informed that nothing has been done, and more importantly what hon. Imanyara has narrated here, I will immediately - as soon as I finish here - go and get the Commissioner of Police and find out exactly why that has not been done. I would be quite happy to actually come here and tell you what has been done, and if it has not been done, what are the reasons. I do not take lightly, the security of Members of Parliament. That, I think, is very important.

Mr. Deputy Speaker, Sir, regarding the other point that has been brought forth here by the Member for Embakasi, I have stood here on a previous occasion and said that I have given directives that *Kwekwe*, wherever it was, should be disbanded. I received confirmation from none other than the Commissioner of Police that the so-called *Kwekwe* Squad was actually disbanded. Even as of today, that is the information that I have from the police.

I think on this matter, I welcome the information that you have - and would like to have it - precisely to know whether I am being misguided somewhere else. I have been forthright on this matter of security and I do not wish to be misguided. If I find out that I am being misguided, I will take firm action against that particular officer. The information I have today is that the *Kwekwe* Squad is not there.

Mr. Deputy Speaker, Sir, be that as it may, let us also appreciate the fact that over a period of time in this country, there have been organized criminal gangs in many parts of this country that have also been involved in crimes.

*(Mr. Waititu stood up in his place)*

**Mr. Deputy Speaker:** Please! You have made your point. The Minister has given an undertaking on the Floor of the House.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, I want to inform the Minister that, maybe, in the books, the *Kwekwe* Squad was disbanded. But its members are still operating. They are using the same Nissan they were using when the *Kwekwe* Squad was in place. So, police officers who were in the *Kwekwe* Squad are still there.

**Mr. Deputy Speaker:** Do you know them?

**Mr. Waititu:** Yes, Mr. Deputy Speaker, Sir. They are known! This is something that is known to the people.

**Mr. Deputy Speaker:** Under those circumstances, it would be fair for you to go to the Minister and give him the finer details of the information that he needs to have. Then, you will be in a position to stand on the Floor of the House and ask him to account for it. That is because you will have given him the information that he is saying that he does not have. Is that okay, hon. Waititu?

**Mr. Waititu:** Mr. Deputy Speaker, Sir, that is something that I have even told the Commissioner of Police about, one week ago. It is something that is true. They are there everyday. It is not---

**Mr. Deputy Speaker:** The Minister is in charge of the Ministry, including the Commissioner of Police.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, I will just inform him here. I can even give him the registration number of the Nissan they are using to pick people.

**Mr. Deputy Speaker:** Fair enough! You will do that.

**Mr. Linturi:** On a point of order, Mr. Deputy Speaker, Sir. In view of the manner in which the Minister of State for Provincial Administration and Internal Security is taking the matters that have just been raised by hon. Imanyara and hon. Karua, and his undertaking to get back to his officers and confirm whether or not he is being misguided, I feel that it would be for the interest of this House that he gives us a definite date when he will report to this House.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I have already said that I am going to embark on the matter now and, tomorrow, I will be quite happy to come and give information to this House. That is because I do not take this matter lightly at all.

**Mr. Deputy Speaker:** Fair enough! The Minister has given an undertaking that he is going to come back to the House on Wednesday afternoon.

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I have given that undertaking. I will deal with the matter tomorrow. It is a matter to be moved into with speed.

#### UPSURGE OF INSECURITY IN MIGORI MUNICIPALITY

**Mr. Pesa:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the following issues:-

I want to know if he is aware of the insecurity situation in Migori Municipality and the surrounding areas at the moment, where several people have been attacked and even lives lost in the last two weeks. What could be the reason for the rampant insecurity where people are attacked and injured in their houses, but no property is stolen? What is he doing to curb that state of affairs in order to protect the affected residents of Migori Constituency in general?

**Mr. Deputy Speaker:** Mr. Minister, when will you issue that Ministerial Statement on Migori?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I would like to ask that I be given up to next week, because I want to deal very seriously with the matter that has been raised previously.

**Mr. Deputy Speaker:** The Chair directs that it will come on Tuesday next week!

**Mr. Ogindo:** On a point of order, Mr. Deputy Speaker, Sir. I just want to know from the Chair, whether the Minister has since been released of his sanction. This is because other than the unique nature of the point of order that was raised by hon. Imanyara, I think this is---

**Mr. Deputy Speaker:** The Minister approached the Chair and the Chair was convinced! Indeed, actually, the Minister had communicated and he is now allowed to transact business.

Hon. Minister, could you issue the Ministerial Statement that you undertook to give?

## MINISTERIAL STATEMENT

### COUNTRYWIDE UPSURGE OF INSECURITY

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Thank you, Mr. Deputy Speaker, Sir. It is, indeed, true that on 11th November, 2009, hon. Martha Karua, the Member of Parliament for Gichugu rose on a point of order to seek a Ministerial Statement from me on the rising insecurity in Nairobi and countrywide, especially in view of the recent incidents. She also wanted to know about the circumstances surrounding the death of the late Mr. Gitau Njuguna.

With regard to the killing of Mr. Gitau, it is, indeed, true that he was gunned down on 5<sup>th</sup> November, 2005 at 4.15 p.m. along Luthuli Avenue. The late Gitau was killed by two unknown persons after a heated argument. The two were walking with him along Luthuli Avenue talking and, it appeared as if the argument arose after which they shot him at close range. There are indications, and we are checking on that, that the victim may have known his assailants quite well, given the fact that they were walking together and they were involved in an argument. Following the killings, the police immediately launched investigations into the murder. We are following crucial leads that may lead into the arrest of the killers. However, I want to lay emphasis here that it was only yesterday that I impressed upon the police that they have to show me the results of the investigations. They have informed me that, indeed, that they have some leads that may lead them to get closer to the people who were involved. It is not true, as reported in the media, that Luthuli Avenue is covered by Closed Circuit Television (CCTV) cameras. There are no such cameras on that particular road. On the other hand, it is true that there have been some cases of murder in the recent past arising out of normal incidents of crime in the country. However, I have no information and I will check with the police, as I said much earlier, about the existence of executions of civilians in the country. I also want to inform this House that every killing is treated as a murder and investigations are carried out in accordance with the law. I also wish to confirm to hon. Members, as I said here, that *Kwekwe*--- I do not have to go into that because I have already given an undertaking to cover this matter again tomorrow. Indeed, hon. Waititu has agreed to avail to me information on the identity of members of *Kwekwe*, which I want to get.

On the issue of kidnapping, there have been 20 such cases which have been reported in Nairobi since January, 2009, and seven have been successfully investigated. In four of the cases, the accused were arraigned in court, while in three cases, the victims were rescued with no arrests made. In four cases, the victims were released without paying any ransom while in five cases, the victims were released after paying ransom. Unfortunately, one victim of kidnapping was found murdered while, in three cases, the victims involved are still missing. Police are investigating the unresolved three cases to ensure that the suspects are arrested and arraigned in a court of law. In a nutshell, there

have been 20 cases and action has been taken upon them in a definitive manner. However, there are three cases where no arrests have been conducted. We are in the process of carrying out investigations on that.

Going by the crime report in Nairobi, the crime rate has declined. If you look at the actual statistics which have been availed to me – and here it is--- I am happy to lay it on the Table of this House.

*(Prof. Saitoti laid the documents on the Table)*

Comparative figures for Nairobi area covering similar period in 2007, 2008 and 2009 indicate a considerable decline in crime. This has been possible due to the measures that the Government has put in place, and which include the following:-

Revitalizing community policing and formation, reactivation of the DCPs Committees through the National Steering Committee on the Peace Building and Conflict Management. We are also intensifying Peace Building and Conflict Management Initiatives and deployment of more police officers in the streets of our major cities. We have installed CCTV cameras in a few of the streets in Nairobi, street lighting has been undertaken by the Nairobi City Council in collaboration with the Central Business District Community, intensify intelligence led policy, enhancements of capacity for security agents through provisions of vehicles and modern equipment and opening up of additional security establishments. In addition, arrangements are at an advanced stage to commence recovery of arms illegally held by communities and individuals in the North Rift and the Upper Eastern where we are facing many problems.

With the ongoing police reforms, aimed at transforming the Police Department into professional, efficient and accountable police service that can be trusted as an institution of peace and social economic development, I am optimistic that we will secure the country.

Finally, I wish to confirm that the Ministry will strive to ensure that Kenyans live in a safe and secure environment as envisioned in Vision 2030.

**Ms. Karua:** Mr. Deputy Speaker, Sir, you will notice that the Minister has avoided one very key component of the request for the Ministerial Statement. That is the number of executions in and around Nairobi from January to this time. I deliberately asked about the executions which would include murder and those by the police. I would like the Minister to say when he will avail that information because he has left it out. However, with regard to what he has answered, I want to draw his attention to the fact that Luthuli Avenue is one of the busiest streets of Nairobi and during the day, in and around Nairobi, especially the business streets, he can confirm or deny the obvious; that there are plain clothed police officers around Nairobi. That is why we see victims of mob justice being rescued. The question I am asking the Minister is this: How come, on a busy street, during the day, Gitau was frog-matched by two men, then shot to death and nobody turned up either to intercept those men or to arrest them and no swoop was conducted on that street. Is it that the police were too comfortable because it was their own operation? What was the reason for that strange behavior?

**Mr. Deputy Speaker:** We will take a few points of order and then you can respond to all of them at once.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I would like the Minister to confirm that along Luthuli Avenue, we have CCTV cameras installed. Could he also confirm that his investigations will include establishing what was recorded on the CCTV cameras and that he intends to immediately install those cameras all over the City? Finally, I recall that subsequent to the murder of Gitau, hon. Bishop Wanjiru, Assistant Minister for Housing, complained that she has received threats that she would meet the same fate and she went to a police station.

Could the Minister inform this house the enhanced security he has given to Bishop Wanjiru and her latest recruit in her church - the leader of Mungiki, Mr. Maina Njenga?

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I am glad the Minister has said that he has made certain leads. Could he confirm that those leads arise from the information that was gathered by Mr. Gitau who has been preparing an affidavit with full details of close to 7,000 young men from Mt. Kenya region who had been executed by an execution squad within the Kenya Police, and that the evidence was taken by the police at the murder scene?

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, the issue of security should not be taken casually the way the Minister has done. Could the Minister confirm that the day Mr. Gitau died, there was an individual who recorded what was happening but has since disappeared?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, I will begin with what Mr. Mbugua has raised. It is not true that I am taking matters of security in a casual manner. I have made it very clear that matters of security are serious and I am not taking them lightly. Mr. Mbugua has also said that there was a person who recorded the murder as it took place, and that he has disappeared. I think the hon. Member will do me great service if he gives me the name of that individual, so that I can follow up the matter. This is the first time I have received this information. I will be glad to get that information because it will help us a lot.

Mr. Deputy Speaker, Sir, the information Mr. Imanyara has given will help us carry out investigations. This is also the first time I have heard this.

With regard to whether Bishop Wanjiru's security has been enhanced or not, I would like to inform this House tomorrow about the security provided to hon. Members whose lives have allegedly been threatened.

Dr. Khalwale has said that there are CCTV cameras along Luthuli Avenue but the information I have is that this Avenue is not covered by these cameras. If, indeed, the hon. Member has information to the effect that those cameras are in place, I would like to have it. This is because if the CCTV cameras are installed along that road, certainly, the incident which took place should have been recorded. A question has been asked as to when we will install the CCTV cameras in the streets of Nairobi and its environs. I would like to assure this House that we are taking this matter seriously. We are waiting for the resources to be availed by the Treasury to install those cameras. We will also install these cameras in Mombasa and other cities because they are extremely important.

Mr. Deputy Speaker, Sir, we need a comprehensive reform programme in the police because we have had major shortcomings in this force. I would like to say that these shortcomings did not start yesterday. We inherited the colonial police when we



gained Independence. Although we have made minor changes here and there, the training and behavior has remained the same. That is why we need major reforms and we will carry them out.

**Ms. Karua:** Mr. Deputy Speaker, Sir, may I seek another clarification?

**Mr. Deputy Speaker:** You only need to seek one clarification so that we can proceed.

**Ms. Karua:** Mr. Deputy Speaker, Sir, the Minister has not answered the question I have asked. I have said that there are plain clothes police officers along every busy street and I wonder what they were doing on that day. Why was there no swoop or rapid response after the shooting of this young man?

I salute the Minister for admitting that the police need reforms. When will the reforms be carried out? What is he waiting for? Could he begin by making every police officer accountable for his or her actions? Could he also begin by not accepting that every time a person is shot dead, he or she is a criminal? Could the Minister start by making the officer involved go through an inquiry? People are being killed like flies in this City! Could the Minister draw his attention to these issues?

**Mr. Deputy Speaker:** Mr. Waititu, seek your clarification.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, everybody knows very well that the former leader of Mungiki, Mr. Maina Njenga, has publicly declared that he is saved and his followers too are saved. Could the Minister assure us that the police will not pursue the former Mungiki members who have been saved?

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, in response to Ms. Karua's question, the police officers who were patrolling the area are also subject to the investigation that is being carried out. Indeed, I have directed for a thorough investigation. I do not care who it is. My concern is that a human being has died and we cannot keep on having unresolved murders. This is a completely new era. It is true that one of the reforms that we have instituted, and can be carried out administratively, because we have to await the formalization of the major report which was presented to us at the beginning of November---

Mr. Deputy Speaker, Sir, delegated responsibilities have now been given from the Police Headquarter to the Provincial Commanders. The Officers Commanding Police Divisions (OCPDs) will now be totally responsible and accountable for whatever happens in their police stations. In the past, that was not the case. This has already been done. There are quite a number of other things that have been done. For example, there is now a reduction in the number of road blocks on our roads. We have also given instructions, that the only road blocks that will remain on the roads, are the ones which will specifically deal with the security situation at that particular time.

We are waiting for the Cabinet to approve the report before we can embark on major reforms. There are quite a number of changes which will come into the picture. There will be legislative, institutional and constitutional changes. Obviously, these changes need to be approved by the Cabinet. As a matter of fact, I hope there will be an Implementation Committee of the Reform as soon as possible. I hope it will be there, by the end of next week.

**Mr. Mbugua:** On a point of order, Mr. Deputy Speaker, Sir. The Minister is not answering the question that was asked by the hon. Member.

**Mr. Deputy Speaker:** The Minister was not supposed to answer a question. There was no question that was asked.

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, he is not answering the clarification.

**Mr. Deputy Speaker:** Order! Mr. Mbugua, you do not need to answer to a clarification, but seek it. What is the clarification?

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, the Minister says they are embarking on reforms. However, we know some police officers stay in a police station for more than three years because of their godfathers. Why is this so when he is talking about reforms? What reforms is he carrying out? That was the question asked by the hon. Member.

**The Minister for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, it is fair enough for hon. Mbugua to really appreciate the fact that it is only a few months we appointed a task force to carry out a survey on the areas that need to be reformed. Three weeks ago, we received the final report on the reforms that should be carried out by the Government.

I would like to ask my very good friend, hon. Mbugua, to hold his horse and, probably, ask that question in the beginning of next month.

*(Ms. Karua and Mr. Waititu stood up in their places)*

**Mr. Deputy Speaker:** Order! Mr. Waititu, this was not a debate. This was a Ministerial Statement that was sought by the hon. Karua. Essentially, when the Minister gives Ministerial Statement, hon. Members are supposed to seek a few clarifications on the content of the statement that he has given. Should you wish to interrogate it very broadly, then there are provisions in the Standing Orders for you to come to this House and treat it differently from the way you are treating it now. We cannot turn that into a debate now.

Hon. Karua, you are going to seek one final clarification, basically on the content of the Minister's Statement. That is the end of it.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I do not even wish to seek any clarification. I just want to draw your attention, Sir, that the Minister did not answer one critical question. How many people have been executed within Nairobi since January this year? That was missing from his Statement. Could he undertake to bring that information tomorrow?

**Mr. Deputy Speaker:** There is a document that the Minister has tabled.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I have looked at it. It is only indicating prominent personalities executed. I was looking for all Kenyans, not only prominent personalities. So, could he, please, give a list of all persons executed within Nairobi, since January this year? People who are not prominent are also human beings!

**Mr. Waititu:** Mr. Deputy Speaker, Sir, considering that the former leader of *Mungiki* has declared that all *Mungiki* members have turned to Christianity and we expect them to change, could the Minister ask the police officers not to harass former *Mungiki* members?

**Mr. Deputy Speaker:** Did you seek a Ministerial Statement on the same before? Do you realise what you are asking was not captured by the Ministerial Statement that was sought by Ms. Karua?

**Mr. Waititu:** Mr. Deputy Speaker, Sir, this issue is very important in Central Province because many of our people have lost their lives in the past. The leader of *Mungiki* members has asked them to change and embrace Christianity as a way of living. However, the police officers are still pursuing them. Could he ask them not to pursue former *Mungiki* members?

**The Minister for Provincial Administration and Internal Security** (Prof. Saitoti): Mr. Deputy Speaker, Sir, in reference to the question being asked by hon. Waititu, I think it is good to appreciate one thing; when it comes to a matter of human life, the Government has an obligation to protect it. The particular that you check whether this person is disabled, or belongs to such and such religion, is immaterial. Our obligation is to ensure that we protect every life. I want to make that very clear.

Hon. Karua wants to know the people who have been executed. Let us agree one thing. It is the definition of "execution". When it comes to the question of people who have actually been murdered, I want to say that the information I had which is contained in this particular table is that from the 1<sup>st</sup> January, to the 12<sup>th</sup> November, 2009, 76 people have been murdered. Last year, December, 2008, the number was 105, which was much higher. When you look at the same period, December, 2007, the figure was 126. I can only give you that information under the category of murder. The issue of execution is a murder, but then you need to qualify it with some evidence.

**Mr. Deputy Speaker:** Next Order!

## BILL

### *Second Reading*

#### THE FINANCE BILL

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Deputy Speaker, Sir, I beg to move that the Finance Bill, 2009 now be read a Second Time.

As I do so, I want to thank hon. Members for the support they have continued to extend to the Government and policies that we are trying to implement. I wish to appreciate the support that members have accorded the tax proposals that we have announced during the Budget Speech this year. As I have indicated in my Budget Speech, our economy experienced three major shocks in 2008. This includes the self inflicted economic disruption following the 2007 general election. Second, the protracted drought. Third, global economic and financial crisis which have adversely affected our economy.

Mr. Deputy Speaker, Sir, with the current drop in the international oil price and the ongoing short rains in most parts of our country, as well as the positive signs of global economic recovery, we are now confident that the policies we are implementing will restore our economy back to a higher pre-crisis growth trajectory.

The taxation measures I proposed during this year's Budget are, indeed, expected to expand economic opportunities and facilitate growth of the economy and ultimately reduce poverty. More specifically, the measures are intended to, among other things, promote the growth of industries and make them more competitive for more tourism and film making as a source of employment and foreign exchange earning and encourage

growth of the Information and Communication Technology (ICT) and infrastructure development.

Mr. Deputy Speaker, Sir, the Finance Bill 2009 contains various proposals relating to Excise Duty, Value Added Tax, Income Tax and Miscellaneous Amendments. Hon. Members will have an opportunity to give their input and, indeed, we have gone through these measures with the relevant Departmental Committee and are, indeed, in agreement, save for some amendments that will be incorporated at the Committee Stage of this Bill.

As I have said, there are various proposals intended to provide incentives to film producers. We also have proposals that are aimed at encouraging cotton production in our country, which has been on a decline over the last decade and hence, the need to give it a new face. The industry has had a huge potential which is largely untapped and, indeed, a potential that can be used to create employment as well as to earn foreign exchange.

Mr. Deputy Speaker, Sir, there are also proposals with regard to ICT, where we intend to allow internet service providers to offset against their taxable income, the cost incurred in acquiring the right to use the fibre optic cable over a period of 20 years, as well as increasing wear and tear of telecommunications equipment, including fibre optic, from 12.5 per cent to 20 per cent.

We also intend to make other items VAT exempt, for example, cellular telephone networks and handsets. In order to make them more affordable, as I said in the Budget Speech, we expect to remove VAT from these items and, as such, we expect to make them more affordable to the citizens and to expand our subscription base that is currently around 17.5 million subscribers.

Mr. Deputy Speaker, Sir, for our youth in rural areas and to aid the *bodaboda* mode of transport, we also aim to zero-rate the VAT on bicycles in order to make them affordable and to ease transport in many parts of our country.

Despite progress that we have made in our banking sector, we also acknowledge that many Kenyans still remain unbanked due to the limited outreach of banks. In order to deepen outreach of the banking institutions and to improve financial inclusion to the vast under-banked and unbanked population, I did, indeed, make proposals to amend the Banking Act to allow for branchless banking and this measure is expected to allow banks to extend their footprints through agencies with wide distribution networks as opposed to establishing physical branches. In the same spirit, I did also further propose to list and exempt financial services from VAT, irrespective of the institution of residence.

We have also reduced the Excise Duty on water and also on sodas in order to make them more affordable, especially during these difficult times.

Mr. Deputy Speaker, Sir, lastly, we have also made proposals in the Insurance Act to allow shareholders of insurance companies to hold--- Previously, the shareholders have been able to hold an unlimited number of shares and this has given rise to corporate governance challenges, especially where a single shareholder or related shareholders have majority control of the company, making imprudent decisions. Again here, we have made proposals to reduce this holding to a maximum of 25 percent. We have further proposed to amend the Insurance Act to bar any person who directly or indirectly owns or controls or is a beneficiary entitled to more than 20 per cent of the shares of an insurance company from participating in the day to day management of the company. All these proposals are intended to improve governance in the insurance sector.

Mr. Deputy Speaker, Sir, the taxation measures and miscellaneous amendments that I have proposed in the Finance Bill will go a long way in meeting the theme of our Budget speech, which is: "Overcoming today's challenges for a better Kenya tomorrow."

There are also additional amendments that we have agreed with the Departmental Committee on Planning and Trade as well as the CDF Committee and the Departmental Committee on Transport, Public Works and Housing with which we have been discussing, all of which we intend to introduce during the Committee Stage, which we hope will come tomorrow.

With these few remarks, I do beg to move and request hon. Members to support.

I will ask hon. Lee Kinyanjui to second.

**The Assistant Minister for Roads** (Mr. Kinyanjui): Thank you, Mr. Deputy Speaker, Sir. I beg to second the Finance Bill, 2009. From the onset, I wish to say that the proposals listed by the Minister for Finance will, indeed, go a long way in ensuring that the recovery that we have been expecting in the economy will move on as envisaged.

Mr. Deputy Speaker, Sir, as we are aware, there are various challenges that hit the country last year that have badly affected our economy. All the measures outlined will go a long way in ensuring that, that is done.

In the Ministry of Roads, there are various changes that were proposed. One of them was the devolution of funds to ensure that previously, as we had done, where the Ministry of Roads sent the money directly to the District Roads Committee, we would like the devolution to be started and the money to be sent directly to the constituency so that hon. Members can have a say in the way roads are actually repaired and to ensure that the money is utilized properly. We will be introducing an amendment to this Finance Bill to ensure that, that is implemented and that the funds are available to hon. Members as soon as possible.

*[Mr. Deputy Speaker left the Chair]*

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

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

*(Question proposed)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Prof. Kaloki, on behalf of the Departmental Committee on Finance, Planning and Trade!

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, on behalf of the Departmental Committee on Finance, Planning and Trade, pursuant to the provisions of Standing Order No.181, I would like to take this opportunity to present to the House, the Committee's Report on the Finance Bill, Bill No. 7, of 2009.

The Members of the Committee comprise the following: Mr. Okemo, who is the Chairman and at the moment, he is away attending to some other parliamentary matters outside the country. Myself as the Vice-Chairman; hon. Midiwo, hon. Kombo, hon. Chepkitony, hon. Gaichuhie, hon. M'Mithiaru, hon. Shakeel, hon. ole Lankas, hon.

Lenny Kivuti and hon. Mwaita. The Finance Bill was referred to this Committee pursuant to the provisions of Standing Order No.111(1).

The Committee held several meetings with various stakeholders to deliberate on the Finance Bill and their views have been incorporated in the Report. It also held several meetings with the Deputy Prime Minister and Minister for Finance and agreed on the proposed amendments.

We agreed on clauses 1 to 8; and 10 to 13. As the Deputy Prime Minister and Minister for Finance was moving this Bill, we agreed on the proposed amendment on Clause 14. We agreed to clauses 15 to 21. We also agreed to clause 22 in a meeting which we had this morning. We agreed on clauses 27 and 28; and clauses 29 to 51.

Mr. Temporary Deputy Speaker, Sir, we agreed on New Clauses. This will help the Ministry boost the economic stimulus package. There were no clauses with regard to that, that were incorporated in the Report. The New Clauses are under Clauses 74 and 75 especially on the Kenya Roads Board Act. Section 17 has been repealed and replaced with what the Deputy Prime Minister and Minister for Finance has stated when moving this Bill. This will enable us to set up in every constituency a roads board and a tender board. The Committee agreed with the Ministry's proposal. I, therefore, urge hon. Members to support this Bill. We will ensure that our economy grows by allocating money to all Ministries. That way, we will move our country forward as far as the economic stimulus is concerned.

**The Minister for Environment and Mineral Resources (Mr. Michuki):** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill because it has been regular in this House. Every year, we have to have a Finance Bill. That is how it should be because that process gives this House the opportunity to express views and even to advise the Deputy Prime Minister and Minister for Finance on how the House sees the financial and economic situation of the country. So, it is a welcome Bill from that point of view.

We know that the services which we need and which our constituents expect must be financed. Other than in issues of emergency and other situations of similar nature, there is nothing for nothing. By nothing for nothing I mean that it is the taxpayers' money, which they earn out of the economy, which will go towards financing the recurrent and development expenditure of this country. And even where money is borrowed in order to finance projects, that money will ultimately and finally be paid for by the taxpayer through the system of repayment of loans. So, at the end of the day, it is the taxpayer who bears the brunt of taxation. In return, he receives protection from the Government. Also, his security is assured and his properties are safeguarded except that certain inclinations in politics appear not to be recognizing these entitlements to property and life which are linked to security. Security is vital so that the economy can function to be able to produce the monies that we need to pass in this Finance Bill. The monies will go towards what Prof. Kaloki has talked about, that is, the stimulus projects; employment of the youth in projects such as the *Kazi kwa Vijana*; and even provide emergency services and food that was being required because of the situation of our weather.

This House does not seem to give matters of the environment priority, but I am afraid that at the end of the day, you will have to face the consequences of adverse climate change and global warming. It is time this House urged and, in fact, agreed that this area of our problems deserves the highest priority in terms of resource allocation. Without saving the environment, I doubt whether you will have any monies to

appropriate through a Bill like this one. It is not my day to campaign for the environment. However, I just want to say that the rectification of what has gone wrong in the environment has acquired, throughout the world, not only in Kenya, the first priority in terms of resource allocation.

The distribution of resources is another issue. This Bill is raising money which this House will then distribute throughout the country towards education, roads, agriculture, forestry and so on. But we must distribute what there is. We cannot distribute nothingness. So, as we talk about appropriation, through this Bill, of a portion of our Gross Domestic Product (GDP) to go towards public services, you must equally recognize the need for the economy to yield even more through persuading Kenyans to be industrious and focused. We need to turn agriculture into business - it is not just about growing food. Agriculture has ceased to be an item of subsistence and so it must now be viewed as a business. And if you are in agriculture that does not behave as a business, you better look for something else to do because you may not have the necessary skills.

So, we must distribute what we have. We cannot distribute what we do not have. We must use what we have in order to assist those who are weak in our society. The whole concept of taxation and budgeting is to take from those who have in order to help those who do not have. However, in doing so, those who do not have must acknowledge the fact that without those who have their lives would be difficult to manage. So, that inter-dependence is a very important part of crafting a society that is responsible.

Mr. Temporary Deputy Speaker, Sir, this House has various Committees to look into the various matters that the Government is engaged in. That is how it should be. However, there has been a tendency of overlooking a very important part of the relationship between this House and the Executive; between the Executive and the Judiciary; and between the Judiciary and this House. I cannot personally get tired of stressing the need for this House, as we deliberate on various matters, to ensure that balance is maintained. Checks and balances must be maintained in order for us to guide the Kenyan society in a proper way.

It is absurd that this House passes laws and then proceeds to interpret them. In the process, it judges people and puts them into social jeopardy. I think that is going beyond what the society in Kenya and the international community expect of us. Therefore, I want to urge that in our deliberations, we look into this matter very carefully. We are the law makers of this country. We have courts that interpret the laws that we pass here. The Executive applies those laws in order to make sure that there is peace within the country. We, as a House, must recognise those parameters, so that we do not go beyond our mandate. Neither should we allow the Executive and the Judiciary to go beyond their mandates. That is why it is actually the balance of authorities that propels this country.

Mr. Temporary Deputy Speaker, Sir, we are now headed for a new Constitution. Let us create institutions. Let us come up with new ideas. If we think that we will create angels other than the ones we see in this House or those who are outside, if any, I think that will be going too far. We cannot look for an ideal situation that will be operated by people themselves. If institutions have not been fit to run the affairs of this country, we must look for the weaknesses from the operators, and not the institutions themselves.

What I am trying to say is that we want changes as if those changes will be operated by people other than ourselves. If it is ourselves who will operate those

institutions, as we change those institutions, we should also look at ourselves and see whether we have any ideology that can become the guiding star in our policies.

Mr. Temporary Deputy Speaker, Sir, this country is endowed with a lot of resources that can benefit, not only Kenyans, but also the world. I am in the Ministry of Environment and Mineral Resources. I believe we have resources. However, even though we have the resources, we will not have investors coming to invest in Kenya if we continue with politics of negativity and envy as well as racial and tribal politics. We will not get there. I hope this House will come to realise that we cannot have it both ways. We either reject investments because of the negative pronouncements we make and join foreigners to vilify this country---

One of the countries represented in this country has disclosed to some of her friends, who also disclosed to their friends, that they have reduced their secret services in Kenya because they can get anything they want from Kenyans. I leave it to this House to decide whether that is a credit to them.

With those remarks, I beg to support.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Finance Bill, but I want to make a few observations.

It is very important for this House to realise the importance of the Finance Bill that we are debating today. In simple terms, we are debating the issue of how money gets into the Consolidated Fund before it is distributed. So, indeed, this is a very important Bill. We realise the Deputy Prime Minister and Minister for Finance has outlined, in the Finance Bill, how he intends to raise funds.

We know that he intends to raise funds from across the country and the entire economy. Several people are taxpayers, but they do not know. They contribute to the Consolidated Fund without their knowledge. In my earlier submissions, I suggested that it is important that we carry the whole country with us on matters of finances, so that Kenyans can appreciate what roles they are playing.

Mr. Temporary Deputy Speaker, Sir, the Deputy Prime Minister and Minister for Finance has just outlined how the economy has been behaving. In his Budget Speech, he indicated that the economy has slumped, for the reasons he gave, from a record 7.1 per cent in 2007 to 1.7 per cent currently. It is imperative that we, as a country, realise that in order for this country to grow, we need to engage all and sundry in our goal setting and production.

To this end, I want to persuade the Deputy Prime Minister and Minister for Finance, and the entire Government, to find a way of engaging the whole country, so that as we hope the national productivity of this country will grow by a certain percentage, we break down that into regional goals and go even further to break it into household goals. If you set a household to grow its productivity by a given rate, and that is done across the country, you will be sure of achieving a certain growth rate that will be desirable. However, if we just throw it into the wilderness, nobody will pick it and follow it up as a goal worth pursuing.

Mr. Temporary Deputy Speaker, Sir, I want to agree with the Minister for Environment and Mineral Resources, who has just spoken; that, indeed, we are fond of scrambling over resources. It is important that we appreciate where those resources come from. The Ministry of Environment and Mineral Resources is very important at this point in time, if we are to sustain our economy. A lot of funds are desired to go into



construction of roads and rural electrification. I want to commend the Ministry of Energy. There are lots of power lines in Rangwe Constituency.

My fear is that without conserving the environment, the power lines which carry electricity produced using water, will one day run dry. To that extent, I think it is imperative and important to this House at this point in time, to prioritize the Ministry of Environment and Mineral Resources and ensure that adequate funding is given so that we can have a country that generates its income by conserving its environment.

Mr. Temporary Deputy Speaker, Sir, I also want to make a few observations on the various sections of the Finance Bill. I want to look at the proposal to include the Kenya Airports Authority Fund (KAAF). This is an issue that we debated sometimes earlier. I want to reiterate my position that, while this idea could be noble, it is indeed important that it receives due scrutiny. To that end, I had suggested that the Minister makes arrangements to bring an independent Motion or Bill seeking to establish this Fund. We are talking about something in the region of Kshs2.5 billion annually. In a way, I see this as an attempt to cannibalize the country's Treasury. If we go on with this trend, we will have very little funds flowing into our Consolidated Fund. If there are, indeed, any justifications, then this should be articulated very clearly on its own merit and demerits so that all and sundry can appreciate that indeed, there is need to ring-fence these funds. If we are going to ring-fence all the funds from their sources, nothing is going to fill into the Consolidated Fund. Moreover, the practice has been that all these corporations that generate funds, surrender the surplus. With a design to ring-fence this Fund, no surplus is going to be surrendered. We are just going to be our own enemies. If we proceed with this, we will have fat parastatals with a very thin Treasury. I will revisit this issue tomorrow during the Committee Stage with a more vigorous opposition.

I also want to express my opposition to the removal of the Sugar Development Levy (SDL). I come from a region where sugar-cane is grown. Sugar-cane farming is very under-developed. We still need to develop the sugar industry there. One of the leading sources of funds for development of the sugar industry in this region is the SDL. The Minister in his proposal indicated that he is proposing to scrap the SDL so that he can help reduce cost of production. My argument has been that much as we need to reduce cost of production to the multinationals, we are more duty-bound to protect our farmers and millers locally because they are a source of income and employment to our citizens. We should maintain the SDL.

Mr. Temporary Deputy Speaker, Sir, the sugar industry needs research. I know there has been an argument that sugar factories are to be privatized. My constituents are opposed to the privatization of the sugar factories. But, even if you were to privatize them, it is important that you fatten your cow before you sell it. The only way we can fatten the sugar industry and make it attractive to investors in the event of privatization, is to attract much more funding from the SDL. It would be ridiculous to take the sugar factories to the market when they are going to fetch very little returns. I want to promise that I will come tomorrow to vigorously oppose that removal at the Committee Stage.

I have been discussing with the Vice-Chairman of the Committee on Finance, Planning and Trade, Prof. Kaloki and he promised me that they are going to bring an amendment here. However, I want to express my opposition to Section 28 of the Finance Bill which seeks to give authority to the tax man to take taxes in advance. I do not think this proposal augurs well for the economy. We know that sometimes it is possible for the

Treasury to go dry. However, the Treasury has other avenues of raising funds. The Treasury can borrow from the open market and I am sure that is a sure source of revenue. The temptation to abuse this process is very strong and it will lead to harassment of committed taxpayers. I think it is important that this House protects the taxpayers. Much as we need money, we also need to protect the taxpayers. To that extent, I want to express my opposition to that section. I hope the Committee on Finance, Planning and Trade will lead in the amendment of that section.

Mr. Temporary Deputy Speaker, Sir, I also want to talk about the Electronic Funds Transfer (EFT). The Central Bank of Kenya (CBK) has come up with a new payment system. On the face of it, I am persuaded to believe that it is a system that is going to be much more efficient and less prone to abuse. However, I think it is important that all and sundry appreciate how this system is going to be audited. Fears are that a lot of things are happening at the background and by the time people wake up to reality, it could be too late. I want to persuade the CBK, through the Minister to open up this system for public scrutiny so that we can also give it our approval as the end users. You realize how troublesome this system has been since it was implemented.

Last but not least, I want to mention something about the Constitution. I think this country belongs to all of us, as Kenyans. This time round, it is incumbent on every Member of this House to do his or her level best to ensure that we achieve a new Constitution. It is also important to appreciate that with the Harmonized Draft Constitution, we have a history. There are guiding principles that have been outlined. We know we have oscillated between the two extremes and now we have a Harmonized Draft which gives us a middle ground. The whole idea is to ensure that we have a united country. It is important that we remain the same angels we are when we are speaking in this House, when we get out there. It is the same Members who change their status when they leave this House. They talk in a very poisonous manner and it is impossible to correct. It is my humble request that this time round, each and every Member needs to stand and commit himself or herself before this nation and constituents that he or she is committed to the delivery of the Constitution.

I beg to support.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila) Mr. Temporary Deputy Speaker, Sir, I stand here to support this Bill, and at the same time congratulate the Minister for Finance for the work that he has done since he read the Budget in June. I particularly want to congratulate the Minister for the effort he has made in creating stimulus packages for the purpose of improving our economy, and particularly channeling of funds to the rural areas to address the unemployment situation of the youth. This is important and I just urge the Minister to scan through his proposals, because so far they are merely proposals; we have not yet seen funds flowing down to the rural areas and to constituencies to carry out the Minister's proposals on the stimulus package.

Having said that I think the Minister has addressed the issue of our economy basically on employment of the youth and also in the rural areas. With respect, I think he has ignored a very important sector, which I want to advise him to very quickly move into. This is in banking. The area of banking has been left free for a long time now. Going by the practice of other countries, we are seeing that banks in other countries are

reducing interest rates to affordable levels to stimulate the economy, and I beg the Minister to listen to me. In other countries--

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Michuki and your colleague need to listen to the Assistant Minister.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): In other countries, since the economies went bad, governments have taken action to stimulate their economies and banks have not been left behind. Banks have been taken along to ensure that they participate in the stimulation of the economy. I think banks are very important in any economy, and we cannot pretend to be improving our economy simply by channeling Government funds to the rural areas, and ignoring the mere fact that banks are key to economic growth. I say this because the interest rates in this country remain some of the highest in the world; there is no way we are going to improve our economy when interest rates by banks remain as high as they are at the moment. Therefore, I ask the Minister to take deliberate measures to ensure that this matter is corrected.

Mr. Temporary Deputy Speaker, Sir, 18 percent interest charged on money borrowed cannot stimulate any economy. There is no business that you will be able to do and make a profit at this interest rate and then be able to employ someone. No wonder that banks in this country are the only remaining business that is making huge profits today. Why is it so? Every year they are reporting increases in profits because they are free to charge as high interest rates as they want. Therefore, if the Minister is to succeed in improving this economy he must take a deliberate action to address the issue of bank interest rates. If interest rates are not lowered, we will be wasting our time thinking that we are going to improve our economy.

Mr. Temporary Deputy Speaker, Sir, through you I urge the Minister ---

**Mr. Kigen:** On a point of Order! I was going to ask Mr. Temporary Deputy Speaker that the Minister listens to this. It is very important for him to hear it.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I am paying very close attention and you could see me consulting with my officers on the same.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): I thank you; I know the Minister is a very good listener, and therefore he will take action.

I have emphasized this point because it is so crucial; interest rates in the US are zero percent, in Kenya they are 18 to 20 percent. And then banks are making huge profits. So, I think this is important, if the Minister's proposals are to be effective.

Let me also take this opportunity to congratulate the Chair of the Departmental Committee on Finance, Planning and Trade for the report he has laid before this House. I think at the Committee Stage we will be able to make certain improvements, particularly in relation to the Ministry of Roads. There has been creation of boards that are to maintain roads, the highways, urban and rural roads authorities, but this is creating a lot of confusion. Roads Class C and above, for example, cannot be maintained by our roads engineers. These are the majority of the roads in the rural areas which have been run down, but the engineers cannot repair them because funds are centralized in Nairobi.

Therefore an amendment must be made immediately, so that funds are sent down to the rural areas so that these roads are maintained.

Of more importance is the fact that when we approve funds here for the Ministry of roads, it appears to me that the Ministry is still taking money to certain advantaged areas, and leaving marginalized areas without roads. As I drive all over I see certain areas of this country with tarmac roads that criss cross one another. I see E Class roads being tarmacked. But I go to other areas, particularly in my area, and I find that even a B Class roads are not even murramed. I wonder why, with the billions of shillings that we have approved for the Ministry of Roads, the Ministry is continuing to marginalize areas that have been marginalized even before. Therefore, I urge the Minister to intervene in the Ministry of Roads so that he ensures that the money that we approved here for roads development is not concentrated in certain areas, and that it is distributed to all parts of this country.

I want to decry the service delivery of the Ministry of Medical Services. Something is overly wrong with the Ministry of Medical Services. Service delivery is non-existence in our hospitals. Our hospitals have had no management boards for the last two years. I wonder how much energy we need to create hospital management boards. Those officers in the hospitals have been left alone to run hospitals the way they want. No wonder equipment in these hospitals is broken down. You go to Mwingi District Hospital and the mortuary is non-existent. It used to be there; where does the Ministry of Medical Services expect people to preserve bodies when people are dead, yet we have allocated the funds for this purpose?

In the year 2003 when the NARC Government came to power hospitals had been run down; they had no drugs. When the new Government took over in 2003 the situation continued to improve until two years ago. Now we are almost going back to where we were prior to 2003. Dispensaries have no staff and drugs; we do not have staff in district hospitals, and the worst of all is Kenyatta National Hospital (KNH).

KNH, which is a Government referral hospital, is now a disgrace in this country because it is now retaining bodies of the citizens of this country who die until their relatives pay hospital bills. I have never believed that, that could happen. A Government hospital is detaining dead bodies and refusing to release them to the poorest of the poor Kenyans in this country unless they pay the bills. When they say that they have no money, they are insulted and told: "Go to your Member of Parliament and get money to pay." When hon. Members intervene and write letters to the Director of KNH, he sends those people back to them with a message: "Tell your Member of Parliament to pay." They have completely refused to release the bodies. I have talked to the Minister for Medical Services, hon. Prof. Anyang'-Nyong'o and he has admitted that, that is the case. As I speak here, there are bodies of poor Kenyans which are being held by the Director of KNH. He cannot release them unless the money is paid. He has even threatened them that if they do not collect by a certain date, he will bury them in Lang'ata.

Mr. Temporary Deputy Speaker, Sir, as I speak here, there are patients who were discharged from KNH, but they are being detained there until they pay their bills and, yet, every day, their bills are increasing by Kshs600 and the poor Kenyans cannot afford. What has gone wrong? Since we allocate funds here, there must be some funds to cushion the poor people who get sick in hospitals. Otherwise, if that is not the case, then make KNH a commercial hospital because it has been turned round now by its Director.

Therefore, I urge the Deputy Prime Minister and Minister for Finance, who I know is working very hard to correct this, to get involved in how the Ministries utilize the funds that he is releasing to them. How is the Ministry of Medical Services utilizing its funds? Even for a poor man to have his P3 form signed by a medical officer of health, he has to give a doctor Kshs3,000 or Kshs5,000 without being given a receipt. Where are we heading to? We are heading backwards. I know that the Minister means very well. He is supplying funds to those institutions, but they are not putting those funds into proper use.

Mr. Temporary Deputy Speaker, Sir, I have deliberately addressed issues concerning two Ministries. There is the Ministry of Roads which is marginalizing Kenyans using the funds that have been allocated by this House. Then, there is the Ministry of Medical Services whose service delivery has gone below standards. It has no sense of sympathy for the poor people of this country who have no funds. Therefore, while we are going to approve the taxation measures proposed by the Minister in this Bill, we urge that proper utilization of resources be exercised, so that Kenyans can benefit from the taxes that they pay. We are all taxpayers and we expect to be treated the same. We also expect resources to be equitably distributed to all parts of this Republic.

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

**Mr. Abdikadir:** Mr. Temporary Deputy Speaker, Sir, in view of the tenor of the debate, would I be in order to ask that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Mr. Manyara): I do not see any objection to that. But since the Mover is not here, I will take one more. Yes, Mr. Jirongo!

**Mr. Jirongo:** Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, let me take this opportunity to assure the Deputy Prime Minister and Minister for Finance that all of us were impressed with the devolved budgeting that he did earlier in the year. What is important is to ensure that the constituencies tender committees are functioning. For once, we had an opportunity, as Kenyans, to deal with our taxes at the grassroots level.

Mr. Temporary Deputy Speaker, Sir, as I support him, there are certain issues which we feel need to be looked into. The Budget was targeting to stimulate the economy. But there are already economic ventures in this country that we feel needed to be funded and looked into, because you cannot talk of stimulating the economy and decide to let what you have go to waste. When I say this, I have in mind a few institutions of economic importance to this country that are being left to go to waste. One such institution is Nzoia Sugar Company. I believe that if the Government wants to privatize Nzoia Sugar Company, it needs to invest in it and make it more viable. We know that this country spends a lot of foreign exchange on the importation of sugar. We also know that there are various other sugar products including bargasse, alcohol and power generation. It is high time that the Government looked into more investment in our sugar industry, so that they can compete effectively.

Mr. Temporary Deputy Speaker, Sir, over the weekend, our Presidents talked about free trade within the East African Community (EAC). We know that Common Market for Eastern and Southern Africa (COMESA) is also coming up. Unless our industries are made competitive, they will end up closing down.

The tea industry is very critical to this country. At one time, it was one of the sectors that Kenyans relied on in terms of foreign exchange. But tea factories like Mudete are going down the drain. Farmers have now decided to sell their tea to Finlay simply because whatever they deliver is taken away from them in form of paying debts. Busia

Sugar Factory is an institution that has been talked about for a very long time, and there is potential. As I look at all those industries, they are part of stimulating the economy. It is important to take care of what you have before you start new ventures. Pan African Paper Mills (Pan-Paper) is an ugly scenario in our economy. The amount required to get it moving is not a lot. We are talking about Kshs1.6 billion. How do you stimulate the economy by buying dying cows, but you cannot find money to restart an industry that employed over 15,000 people? I am by no means demeaning the intervention of the Government when many farmers were losing cows, but if money could be found for that, for sure, it should also be found to get Pan-Paper back on its feet. These are few industries that can help create employment in this country.

Mr. Temporary Deputy Speaker, Sir, I believe *Kazi kwa Vijana Programme*, is one of the worst scandals that this country is going through. That is a waste of a lot of money. Nobody can account for *Kazi kwa Vijana Programme*. That money could have been utilized to move those factories forward, because they employ the youth. There is another programme which is coming up. I do not know whether we are turning into a socialist state, where we want to give certain people free money – money that we are taxed. I think, as a country, we need to be a bit serious.

We cannot use taxpayers' money and say that we are giving it to the less fortunate, when we are giving it to people who voted for us. We are using public money to campaign. That trend is dangerous and unacceptable. We need to be serious with the economic issues that affect our country. Therefore, I urge the Deputy Prime Minister and Minister for Finance to give the *Kazi Kwa Vijana Programme* money to constituencies in equal proportions so that hon. Members can use it as part of CDF and create projects that we can see. If somebody spends Kshs1 billion and tells us that he was using it to slash grass somewhere when we have councils that are supposed to be doing that, that is an insult to the taxpayer. I am requesting the Deputy Prime Minister and Minister for Finance to relook at the *Kazi Kwa Vijana Programme*. I am also requesting him to be careful about the new programme of giving people in the slums free money and saying that we want to improve their livelihoods. We are not a socialist state. We are a country that has chosen a certain economic direction and we need to stick to that direction.

With those few remarks, I support the Deputy Prime Minister and Minister for Finance.

**The Temporary Deputy Speaker** (Mr. Imanyara): I think we had agreed that after Mr. Jirongo's contribution, I will call the Deputy Prime Minister and Minister for Finance. I do not think that there is any objection.

Therefore, *Waziri*, I now call upon you to reply.

**The Deputy Prime Minister and Minister for Finance** (Mr. Kenyatta): Thank you very much, Mr. Deputy Speaker, Sir. May I, once again, thank hon. Members for all the comments that they have made. As I said, all the comments have been noted and taken into account by myself and the officers present. However, let me say that the intention, not just of the tax measures that we are passing, but the intention of the Budget as a whole, is to ensure that public funds are used for the intended purposes. Indeed, it is my hope that hon. Members, through their various Committees and ordinary constituency work, will continue to keep Ministries on their toes with regard to completion of projects because there is no need to be in a position where you are giving funds and yet, those

funds are returned to the Treasury at the end of the financial year because the uptake has not been there.

Mr. Temporary Deputy Speaker, Sir, hon. Ogindo mentioned one point about advance tax collection and that is an issue that we resolved with the Committee when we met today. It was quite clear that it is not just a question of collecting taxes in advance but rather, to help prevent those individuals who may owe huge sums of money from getting out of the country and causing the country to lose a lot of revenue because they can no longer be traced.

With regard to the issues raised by hon. Musila, I concur that, yes, we need to work together to ensure that our economy, adopts low interest regime because it has a great potential to stimulate the economy. We are working together with the banks in the spirit of understanding that we are in a liberalized economy and we cannot legislate on some of those issues. But we are, indeed, working with them to try and iron out some of the issues that may result in the interest rates being reduced for it to be felt directly by borrowers.

There are additional issues that hon. Members have raised, especially with regard, not necessarily to tax measures, but with regard to the implementation of the Budget itself. I hope that we will all work together. We need to ensure that we improve our absorption rate at the various Ministries. We all need to work together with the Ministries, this House and, indeed, with all the stakeholders who are the people of this Republic to ensure that we have full implementation.

With regard to the issue of the stimulus package, the intention was to ensure that the funds are devolved to the grassroots level in order to involve people at the grassroots level in the affairs of fiscal management. That would help them make decisions and ensure that funds at their local level are utilized in an optimum fashion. Indeed, Members of Parliament will be part of those stimulus committees; we will also have a role of ensuring that they also fulfill their obligation of ensuring that those projects are completed.

Lastly, there was an issue raised by hon. Jirongo about certain stalled projects. He made particular reference to the Pan Paper Company. I would like to assure him that as well as dealing with the issues of trying to protect our poor livestock herders and our poor pastoralists who have been hard hit by the last drought, we needed to ensure that we made urgent intervention measures. However, that has not deterred us from ensuring that we have available monies for the revival of Pan Paper Company. The money is already incorporated in the Budget, and, indeed, once the Cabinet has finalized and approved the proposals that are before it, the monies will be released to ensure that the good industry that contributes greatly to our economy is revived.

With those few words, I beg to move.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)*

## MOTIONS

ADOPTION OF REPORT ON NOMINATION OF  
IICDRC JUDGES

THAT, this House adopts the Report of the Parliamentary Select Committee on the Review of the Constitution on the Nomination of Judges of the Interim Independent Constitutional Dispute Resolution Court laid on the Table of the House on Wednesday 18<sup>th</sup> November, 2009.

*(The Assistant Minister for Trade on 19.11.2009)*

*(Resumption of Debate interrupted on 19.11.2009)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Who was contributing last time? As I can see, this is a resumption of debate. Mr. Omingo was on the Floor. In his absence, let us have Mr. Namwamba.

**Mr. Namwamba:** Mr. Temporary Deputy Speaker, Sir, I rise to second this Motion that was moved by hon. Magara last Thursday, 19<sup>th</sup> November, 2009.

I would like to second the Motion that this House adopts the Report of the Parliamentary Select Committee on the Review of the Constitution on the Nomination of Judges of the Interim Independent Constitutional Dispute Resolution Court laid on the Table of the House on Wednesday 18<sup>th</sup> November, 2009. Before I proceed into the details of seconding this Motion, allow me to, on behalf of the Parliamentary Select Committee on the Review of the Constitution, to express our gratitude to this House for the support it has extended to the Committee in all our tasks to constitute the various organs of reforms. We have brought, before this House, names for the constitution of Committee of Experts that this House deliberated upon and adopted. That Committee, today, is in the first lane of guiding this country in our pursuit of our new Constitution. We also brought, to this House, persons for appointment to the Interim Independent Electoral Commission of Kenya which this House considered and adopted. Today, that Commission has already hit the ground running and already has, under its belt, two successfully conducted by-elections in Bomachoge and Shinyalu. We also presented to this House persons for appointment to the Interim Independent Boundaries Review Commission, persons who were also considered and approved by this House. That Commission is already undertaking its mandate of talking to the people of this country with a view of reviewing both administrative and electoral boundaries of this country.

Mr. Temporary Deputy Speaker, Sir, today, we present to this House persons for appointment to the last organ in this composite process - persons to be appointed to the Interim Independent Constitutional Dispute Resolution Court (IICDRC). Therefore, I want to second the Motion that this House considers the following persons for appointment as judges of the IICDRC:

- (i) Mr. S. N. Mukunya
- (ii) Ms. Violet Khadi Mavisi
- (iii) Ms. Scholastica Omondi
- (iv) Ms. Jamilla Mohamed
- (v) Mr. Sankale ole Kantai
- (vi) Mr. Mburugu M'Nkanata Kioga.



The above six names are of citizens of this country. Then we have:-

- (i) Mr. Michel Bastarache, a citizen of Canada
- (ii) Ms. Unity Dow of Botswana
- (iii) Mr. John Alistair Cameron, Lord Abernethy, of the United Kingdom (UK).

These persons are recommended for appointment pursuant to Section 60A of the Constitution of Kenya as amended vide the Constitution of Kenya (Amendment) Act, No.10 of 2008.

This House may remember that last year it enacted two landmark pieces of legislation in pursuit of recommendations made by the National Dialogue and Reconciliation Committee (NDRC), popularly referred to as “the Serena Team” and the Independent Review Commission (IRC), ordinarily referred to as “the Kriegler Commission”. The two commissions recommended a raft of organs to be constituted through this House for purposes of completing what was referred to as “the Agenda Four reform package”.

It is under that process that the Constitution was amended to provide for the formation of an IICDRC, whose mandate is temporary and limited to handling any disputes that may arise out of the constitutional review process that is currently underway.

Mr. Temporary Deputy Speaker, Sir, in arising at the nine nominees that we present to this House today, the Committee engaged in a very thorough exercise of identification and interview of the candidates. In accordance with the law, the Committee advertised for these positions and received applications from 141 Kenyans.

*(Loud Consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Please, lower your consultations, especially you on the Front Bench!

**Mr. Namwamba:** Thank you, Mr. Temporary Deputy Speaker.

The advertisement attracted 141 Kenyans seeking the six slots reserved for citizens. We also received five proposed names from the Panel of Eminent Personalities, and it is from that pool that the Committee proceeded to select the nominees being presented here.

Mr. Temporary Deputy Speaker, Sir, let me also add that this is perhaps the one organ that underwent more thorough vetting than any other, because of the nature of the work that this team will be handling. This team went through a written interview that was conducted with the assistance of a team of top lawyers and legal scholars from the University of Nairobi Law School. This was an interview that was then followed by an oral interview. From that oral interview, the six citizens, plus the three international experts, we have presented here emerged. Therefore, the Committee has absolutely no doubt that we present to this House persons that qualify to sit on this interim court and we have no doubt that we have presented here the best from what we had to consider.

Mr. Temporary Deputy Speaker, Sir, let me stress the point that this court is a temporary. The court will be charged with the responsibility of undertaking duties that have ordinarily been handled by the High Court of Kenya, and that is considering disputes of a constitutional nature. Should this country proceed to enact a new

constitution, the role that this court will temporarily handle will become the province of the proposed Supreme Court.

Mr. Temporary Deputy Speaker, Sir, let me also add that the formation of this court is of critical significance to the conclusion of the constitutional review process. As we present this report to this House, we are aware that the Committee of Experts (CoE), that I have mentioned earlier, has already published the harmonised draft constitution that is already being debated by everybody in this country in accordance with the law that established the process. This court must be put in place, so that we have a forum through which this country can resolve any disputes that may arise out of the process.

Mr. Temporary Deputy Speaker, Sir, having this court in place will give this country full confidence to engage in debate about the harmonised draft robustly and openly, and well aware that should any dispute arise, that dispute is not going to be resolved in any way other than by reference to this constitutional court. So, I would want to assure the nation that we have a grand opportunity to enact unto ourselves and posterity a constitution that we can be proud of and that we can confidently bequeath future generations of this country; we are confident that we have a forum through this IICDRC – a forum through which we can resolve any disputes that may arise.

Mr. Temporary Deputy Speaker, Sir, let me conclude by noting that for the first time since we started the journey towards a new constitution, we are perhaps presented with the best opportunity ever to crack this puzzle, that has vexed the soul and mind of our nation for over two decades. For the first time, we have an opportunity to debate and consider this heavy agenda objectively and openly, knowing that if we do not resolve these issues today, what may befall this country tomorrow may be too difficult to contemplate.

I want to urge my colleagues in this House, and the nation at large, that constitutional making is not a wedding or a church service, because it is about power. It is about arranging how the country is to be managed. We will engage in heated debates. In fact, we must engage in passionate deliberations on this issue, knowing that at the end of the day we must agree to take this country forward.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I second the Motion.

*(Question proposed)*

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I support the Motion and commend the Parliamentary Select Committee (PSC) for a very good job in steering forward the reform process. I know the PSC has been charged with a lot of task in steering the Constitutional Review process, and it has done very well despite initial teething problems. I would like to say something in relation to the last position. The Committee set a very high standard of public probity for the persons who were selected. It used internationally acceptable standards and sometimes surpassed them.

As it has been indicated by Mr. Namwamba, the process was exhaustive, thorough, transparent, consultative and very professional. We urge the Judiciary to emulate what the PSC did, in future. I also thank and congratulate the PSC for observing the equity principle in gender representation again. We have a sizeable number of qualified women who have been nominated to those positions. I will not go through the

entire list but I will give an example. I have been reminded that on this aspect, we have realised 50 per cent women representation. We have even gone beyond the proposed one-third in the Harmonized Draft Constitution. I urge the House to keep up with this good trend that has been observed in every appointment.

However, one of the quieter aspect that has not been very clear is that we have also had an eye for a person who has worked in the children's sector and who will, therefore, be sensitive to issues to do with children. In this respect, and even in the Committee of Experts for the Constitutional Review, we have had persons who have worked in the past with children. This is commendable. Most of the time, you may think that this is not important but there are issues, especially when you are coming with a Constitution for posterity--- We need to have people who have that "eye".

Mr. Temporary Deputy Speaker, Sir, I have indicated earlier on that the persons who have been nominated are of very high calibre. This also applies to the women who have been nominated. So, it is not just a question of equity but a question of persons who are highly regarded in their profession.

However, I pray that this body will not have a lot of work. It will be good for the country if we discuss and harmonise the issues that may be contentious so that we do not have to refer them to this court. Therefore, I urge my colleagues that even as we discuss the Harmonized Draft Constitution, we should exercise restraint for the sake of this country and its future.

In conclusion, I encourage my colleagues not to discuss issues that they deem contentious in a manner that divides us but in a manner that unites the country.

With those few remarks, I beg to support.

**Eng. Gumbo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. When I look at the faces of hon. Members here, through which I see the entire nation, I can see that this House and the nation, at large, are on a reform mood and mode. Would I be in order to persuade the Chair to call upon the Mover to respond?

**The Temporary Deputy Speaker** (Mr. Imanyara): The House is in agreement with that because I do not see anybody challenging that.

So, I now call upon the Mover to respond.

**Mr. Namwamba:** Mr. Temporary Deputy Speaker, Sir, I seek the indulgence of the Chair on this matter. Given the fact that the Mover of this Motion, Mr. Omingo, is not in the House, could I respond?

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, go ahead!

**Mr. Namwamba:** Mr. Temporary Deputy Speaker, Sir, I thank the House again for the tremendous support that it has extended to the Committee in the task that it bequeathed the Committee to put in place all the organs of reform. I have already mentioned that this is the final organ of reform that we have put in place. I thank the House and assure it that the Committee will continue to undertake the mandate of steering the whole process with commitment and dedication that we have shown this far with the full confidence that together we shall deliver on Agenda Four.

With those few remarks, I beg to move.

*(Question put and agreed to)*

ADOPTION OF SESSIONAL PAPER NO.3 OF

## 2009 ON NATIONAL LAND POLICY

THAT, this House adopts Sessional Paper No. 3 of 2009 on National Land Policy laid on the Table of the House on Wednesday 18<sup>th</sup> November, 2009.

**The Temporary Deputy Speaker** (Mr. Imanyara): I have been informed that this Motion has been deferred for technical reasons regarding its work with the Departmental Committee. So, it is deferred!

*(Motion deferred)*

ADOPTION OF REPORT ON PROPOSED HARMONIZED  
RULES TO HANDLE EALA BUSINESS

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the proposed harmonized Rules to handle East African Legislative Assembly Business laid on the Table of the House on Wednesday 18<sup>th</sup> November, 2009.

**The Temporary Deputy Speaker** (Mr. Imanyara): I understand that the Chair of this Committee is out of the country on an official business of the House in Europe. I will also defer that Motion.

*(Motion deferred)*

ADOPTION OF REPORT OF FIRST SESSION  
OF SECOND LEGISLATURE OF PAP

THAT, this House adopts the Report of the first Session of the Second Legislature of the Pan African Parliament held from 26<sup>th</sup> October to 5<sup>th</sup> November, 2009 in Midrand South Africa laid on the Table of the House on Wednesday 18<sup>th</sup> November, 2009.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, since I was the Leader of that Delegation and I cannot preside over the House and Move the Motion at the same time, I defer it.

*(Motion deferred)*

ADOPTION OF IMPLEMENTATION COMMITTEE  
REPORT ON QUESTION NO.182

THAT, this House adopts the Report of the Committee on Implementation on the undertaking made by an Assistant Minister of State for Provincial Administration and Internal Security on Tabling of Reports of Commissions with regard to Question No. 182.

**The Temporary Deputy Speaker** (Mr. Imanyara): I am told that there has been an agreement that this Motion should only be moved in the presence of Mr. Ojode

because it relates to his personal conduct. Since Mr. Ojode is out of the country on official Government business, the Motion is deferred.

*(Motion deferred)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, Wednesday, 25<sup>th</sup> November, 2009, at 9.00 a.m.

The House rose at 5.50 p.m.