

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

**Tuesday, 27th January, 2009**

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Financial Statements of the Agricultural Finance Corporation for the year 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for  
Roads (Dr. Machage) on behalf  
of the Minister for  
Agriculture)*

The Abstracts of Accounts of the Municipal Council of Nakuru for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Municipal Council of Nakuru for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Town Council of Chogoria for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Municipal Council of Kisii for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Municipal Council of Kisii for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Municipal Council of Kisii for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Town Council of Mtito Andei for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Municipal Council of Webuye for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the County Council of Nyambene for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the County Council of Thika for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the County Council of Siaya for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the County Council of Siaya for the year ended 30th June, 2005,

and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the County Council of Siaya for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

The Abstracts of Accounts of the Municipal Council of Kakamega for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister for Roads  
(Dr. Machage) on behalf of the  
Deputy Prime Minister and  
Minister for Local  
Government)*

### **POINT OF ORDER**

INAPPROPRIATE DRESSING  
BY HON. KIUNJURI

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. I notice that hon. Kiunjuri is in the House in open shoes. He appears to be having a bandage on his big toe, but he has no bandage on his neck. He appears to be inappropriately dressed. Is he in order?

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

### **CONSIDERED RULING**

ALL HON. MEMBERS MUST BE  
DECENTLY DRESSED

**Mr. Speaker:** Order, Mr. Kiunjuri! Hold on for a minute!

Hon. Members, the point of order raised by hon. Olago is valid. Indeed, the Speaker had noted that with concern a little earlier than it was raised. I had sought information from our institutional memory, apart from the Speaker's Rules on this matter, which govern Members on the mode of dressing.

Among other things, the Rules provide and, indeed, this has been upheld in previous practice and precedents of this House, that all Members must be decently and smartly dressed in a manner befitting of Membership of this august House. Hon. Members should not dress in a manner that is over-revealing. Hon. Members of the male sex will dress in suits; suits are as ordinarily known to reasonable persons. The suits should be such that the top covers your full sleeves. If it is a different version of suits from the orient, then, as much as possible, it should cover your sleeves and your neck, so that you do not expose inner clothes to your colleagues if you are a man.

*(Applause)*

As things stand now, again, employing the use of one of my six senses, namely, the sense of sight, I can see that hon. Kiunjuri has exposed his inner clothes to the Members of this House. Hon. Kiunjuri, I can see a T-shirt inside your suit, which I should not see. So, I am afraid, you are inappropriately dressed and I order that you withdraw from the Chamber. For the rest of the day, you will stay outside this House and, indeed, away from the precincts of Parliament as the Standing Orders

provide.

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mr. Kiunjuri! I have made a ruling on the manner in which you are dressed. If you do not comply, then you will have to be forced out and live with the consequences that follow there from. You must withdraw, hon. Kiunjuri!

*(Mr. Kiunjuri withdrew from  
the Chamber)*

**Mr. K. Kilonzo:** On a point of order, Mr. Speaker, Sir. While I appreciate your ruling and I do not want to revisit it, in the Ninth Parliament, where a few of us, including you, were Members points of order on the mode of dressing used to come up. Your predecessor kept on saying that he appreciated that times have changed and the new Standing Orders would take into account the African way of dressing given that the definition of dressing in the House in the current Standing Orders is a colonial relic.

Now that we have revised our Standing Orders, would I be in order to ask the Chair to take into account other decent modes of dressing, some of which are African, which do not expose parts of the body, as you have rightly described, to be allowed in the House, so that we can be proud of our African way of dressing, which is also decent?

*(Applause)*

**Mr. Speaker:** Order, hon. Members! Indeed, that point of order and the observations made by hon. K. Kilonzo are useful to this House. We will be taking that into consideration with a view to revising the Speaker's Rules, so as to accommodate the African mode of dressing and other modes of dressing, as are decent and do not over-expose parts of the body that do not need to be exposed in this House, of all places.

There may be places where you can expose them and it is quite legitimate and allowed. When you are enjoying your privacy, you can very well do so. However, it is the expectation of the Chair that Members will come to the House fully dressed as much as possible. They should have shoes and socks on their feet. Anything less than wearing full shoes and socks for men, amounts to casual dress. This House is not about casual business. It is about important national and sober business. Members must really respect that. The integrity of this House must be upheld at all times.

### QUESTION BY PRIVATE NOTICE

#### SACKING OF LAICO REGENCY STAFF

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

(a) Could the Minister explain why 172 employees of Laico Regency Hotel (formerly Grand Regency Hotel) have been laid off despite the Minister's assurance in the House on 29th April, 2008 that their jobs would be secured?

(b) What urgent steps will the Minister take to ensure that the employees do not lose their jobs?

**Mr. Speaker:** Hon. Members, the Chair is informed that the Minister for Finance, apart from

the fact that he is in the process of acquainting himself with his new portfolio, has an abrupt assignment out of the country and so is his Assistant Minister. Therefore, there is a request that this Question be deferred to tomorrow. I order that the Question be deferred to tomorrow morning.

Is that okay, Mr. Midiwo?

**Mr. Midiwo:** Mr. Speaker, Sir, that is fine, although I have just had lunch with the Assistant Minister for Finance.

*(Laughter)*

**Mr. Speaker:** The Leader of Government Business will take care of that. As far as the Chair is concerned, we treat Members of Parliament with honour and we take their word to be truthful and accurate.

*(Question deferred)*

### ORAL ANSWERS TO QUESTIONS

*Question No.299*

#### NON-PAYMENT OF GOLDEN HANDSHAKE TO RETRENCHED CIVIL SERVANTS

**Mr. K. Kilonzo** asked the Minister of State for Public Service:-

(a) whether he is aware that many civil servants were retrenched in 2000 and were to be paid

Kshs240,000 as "Golden Handshake";

(b) whether he is further aware that no payments have been made to the retirees to date; and,

(c) if he could consider reinstating the retrenched or paying them their golden handshake.

**Mr. Speaker:** Where is the Minister of State for Public Service? We will leave that Question and come back to it at the end.

*Question No.384*

#### RAID ON KTN PREMISES

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

(a) whether he could give the names of the persons who raided the premises of the Kenya Television Network (KTN) in March, 2006, and explain the motives of the raid;

(b) how many people have been arrested and prosecuted so far in connection with the raid; and,

(c) whether he could explain why the Standard Group and the owners of KTN have not been compensated to date and indicate when this will be done.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Speaker, Sir, I want to begin by apologising for not answering this Question last week when it was required because I was out on official duty. The last time I attempted to answer this Question, I said that the matter was in court and, therefore, it was subject to the rule of

*sub judice*. However, Mr. Speaker, in your ruling, indeed, you said that evidence is required to show that this matter was actually in court.

I have now established that, indeed, the matter is in the High Court of Kenya, Nairobi, under Petition No.113 of 2006. It is a matter between the Standard Limited who is the first petitioner and Baraza Limited who is the second petitioner. The hon. Attorney-General is the first respondent, the Commissioner of Police is the second respondent and the Minister, Ministry of State for Provincial Administration and Internal Security is the third respondent.

**Mr. Were:** Mr. Speaker, Sir, if you were listening to what the Assistant Minister said, he has indicated that the matter is in court and that he has some documents to that effect.

**Mr. Speaker:** Mr. Assistant Minister, is that so? Where are your documents?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Speaker, Sir, I, hereby, lay the documents on the Table.

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

**Mr. Speaker:** What documents have you laid on the Table as evidence that the matter is in the court?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Speaker, Sir, I have laid on the Table of the House a copy of Petition No.113 of 2006, High Court of Kenya, Nairobi. This is a petition between the Standard Limited as the first petitioner and Baraza Limited is listed as the second petitioner. The first respondent is the Attorney-General, the second respondent is the Commissioner of Police and the third respondent is the Minister of State for Provincial Administration and Internal Security. That was the evidence I was supposed to produce because I did not have it the last time I attempted to answer this Question. I had to consult the relevant authorities.

**Mr. Speaker:** What is the cause of action in that petition?

Order, hon. Lesrima, could you get hon. Wetangula to assist you to identify the cause of action in the petition?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Speaker, Sir, incidentally, I am not a lawyer. It is a suit seeking different declarations under the Constitution of Kenya.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. One does not need to be a lawyer to understand what the Assistant Minister needs to answer. However, the dispute he has read out seems to be civil in nature. Part "b" of the Question relates to a criminal arrest and prosecution. These two are completely distinct.

**Mr. Midiwo:** Mr. Speaker, Sir, this is not a small matter. Last time, you instructed the Assistant Minister to answer this Question. It is wrong for him to come here and say that because Baraza Limited has filed a case in court, he cannot tell this country who raided the KTN and the *Standard* premises. I think Kenyans need to know who those "brown"-looking people were and who they were working for. We need to know them!

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir. The Question which is being asked by the hon. Member has to do with how many people have been arrested. It is not the Assistant Minister who has taken Baraza Limited to court. It is Baraza Limited which has taken the Ministry to court. So, he needs to answer this Question. Furthermore, you know how the Press is dealing with Parliament because they think some of the laws we are enacting here will allow this kind of action to be taken by the Assistant Minister! We want to confirm that this was illegal and had nothing to do with the law.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I just want to remind the Chair that, about two months

ago, the Assistant Minister claimed that this matter was in court. You ruled that this matter must be brought to your office in advance to make a ruling on whether or not it touched on the rule of *sub judice*. Therefore, I am just reminding you about your earlier ruling so that hon. Ministers do not ambush the Chair and the House by saying the matter is before the court and, therefore, subject to the rule of *sub judice*.

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. Could the Assistant Minister confirm to this House that, in fact, as a result of the activities that this Question addresses, a Committee of this House investigated the issue? Among the findings of that Committee, whose report was tabled in this House, was that the raid was done by the Government. It was so confirmed by Mr. Michuki who was serving then as the Minister of State for Provincial Administration and Internal Security and as contained in the Report that was laid on the Table of this House by hon. Muite who was the Chair of the Committee then. Could the Chair confirm that?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima):** Mr. Speaker, Sir, the last time I was attempting to answer this Question, indeed, that matter was supposed to have been ruled on by you and I was required to bring evidence to prove that the matter was in court. The issues being raised by hon. Members in this House are all contained in the suit.

**Mr. Speaker:** Order, hon. Members! I have heard the concerns raised by many of you who have addressed this matter. I am satisfied that there is need for the Chair to clearly give directions as to whether or not this matter is *sub judice*. I would want to do so on Thursday this week at 2.30 p.m.

Mr. Assistant Minister, without anticipating what the ruling of the Chair will be, you must be prepared to proceed to answer this Question if I rule that it is not *sub judice*.

With respect to the Report that was tabled in this House during the Ninth Parliament, that report became the property of the House. Therefore, it is part of the historical records of this House and any hon. Member is at liberty to come up with a Motion for the House to consider and adopt that Report.

If, indeed, that Report contains names of persons who may have raided the *Standard* and KTN Media Group, that is a matter that ought to be in the public domain, more so, considering the fact that the Report was tabled. So, that is the ruling I give with respect to the point of order raised by Mr. Imanyara. That matter can be revived and the Report can, indeed, be debated in this House upon a Motion being brought.

**Mr. Were:** Mr. Speaker, Sir, I take it from that, that you have deferred the Question.

**Mr. Speaker:** Order, Mr. Were! You did not take it from that! I was explicit on what I said; that I will rule on this matter on Thursday this week at 2.30 p.m and that the Assistant Minister must be prepared to respond to the Question, whichever way I rule, without anticipating my ruling. I cannot be clearer than that!

*(Question deferred)*

*Question No.546*

#### UPGRADING OF MAKUTANO POLICE POST

**Mr. Mwiru** asked the Minister of State for Provincial Administration and Internal Security what plans he has to upgrade Makutano Police Post to a full police station, considering that over Kshs2 million has been spent by CDF in upgrading its offices and other infrastructure.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal**

**Security** (Mr. Lesrima): Mr. Speaker, Sir, I beg to reply.

It is true that a substantial amount of money from the Constituencies Development Fund (CDF) has been used to build a permanent building at Makutano Police Post. However, the building, which houses a report and inquiry office, three cells and armoury, is yet to be completed. To upgrade a police post to a station, a number of factors are considered. These are infrastructure, crime rate and population. The post is yet to fulfil these requirements, but it has been placed in the Police Department Ten-Year Strategic Development Plan for future consideration.

**Mr. Mwiru:** Mr. Speaker, Sir, although I appreciate the answer the Assistant Minister has given, most of the factors that are supposed to be considered for a police post to be upgraded, as he said, are already on the ground. But if it is an issue of, say the armoury and the inquiry office, I promise that the community is prepared to provide. I want to know from the Assistant Minister whether once those things are in place, because I know they are in the pipeline through the CDF, he will upgrade the station.

**Mr. Lesrima:** Mr. Speaker, Sir, I did not hear the question, because there was loud consultation!

**Mr. Speaker:** Mr. Mwiru, could you repeat the supplementary question? Restrict yourself to the Question!

**Mr. Mwiru:** Mr. Speaker, Sir, that was not an answer; when he says "with consultation", because---

**Mr. Speaker:** The Assistant Minister said that he did not hear your question. Just repeat it!

**Mr. Mwiru:** Mr. Speaker, Sir, I am aware that the infrastructure he is talking about, like the inquiry office and the armoury, are part of the same facilities provided for the post.

I am also aware that, that is going to be done before the end of this financial year through the same. Could he then confirm that once those things are in place, he will upgrade the police post to a police station? The population is already high and I am not ready to tell my people to bear with the situation any more!

**Mr. Lesrima:** Mr. Speaker, Sir, I confirm that we will consider it in the next phase of the strategic plan of the Police Department. However, I would like the hon. Member to make an effort and acquire a title deed of the 2.5-acre plot in that particular place.

**Mr. Mwiru:** Mr. Speaker, Sir, the police post is about 29 kilometres away from the next facility, which is at Gatunga. Indeed, it is across two rivers which do not have bridges, although there are plans to do them. So, currently, it is an area that is cut off from the nearest facility, including the police division.

Could the Assistant Minister, in the meantime, consider giving the area a patrol vehicle, because the crime rate is escalating in that place?

**Mr. Lesrima:** Mr. Speaker, Sir, indeed, there is an upsurge of crime due to increase in population. That post borders the Meru National Park, and so we will consider it when we get police vehicles.

*Question No.425*

INFESTATION OF TURKANA FISHERIES  
BY PARASITES

**Mr. Ethuro** asked the Minister for Fisheries Development:-

- (a) whether he was aware that fishermen in Lake Turkana are unable to access the European Union (EU) market due to the existence of a certain parasite in the area;
- (b) what the findings of specific scientific research projects, if any, being undertaken by

the Kenya Marine Research Institute (KMRI) in Kalokol on the parasite are;  
 (c) what institutional mechanisms are in place to communicate and share the findings of such research projects with the local community; and,  
 (d) what action the Government is taking to eliminate the parasite from the fisheries of Lake Turkana.

**Mr. Speaker:** Minister for Fisheries Development! He is not here?  
 Leader of Government Business, where is your Minister?

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Speaker, Sir, the Minister is not here yet!

**Hon. Members:** He was there!

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Speaker, Sir, he is not here now! I suggest that we skip the Question and come to it later, so that we can look for him.

**Mr. Speaker:** Next Question!

*Question No.102*

UNDERSTAFFING OF PRIMARY SCHOOLS  
 IN KIMILILI CONSTITUENCY

**Dr. Eseli** asked the Minister for Education:-

- (a) whether he is aware that there is a serious shortage of teachers in primary schools in Kimilili Constituency and that the teacher/student ratio now stands at almost 1:70, way beyond the recommended ratio; and,  
 (b) when the Government will employ more teachers to remedy the situation.

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

(a) I am aware that there was a shortage of 591 primary school teachers in Kimilili Constituency as per the staffing position of September, 2008. The pupil/teacher ratio stands at 1:52 and not 1:70 as reflected by the hon. Member.

(b) The Ministry allocated Bungoma North District 110 vacancies for primary school teachers during the 2008 recruitment of teachers exercise to alleviate the shortage in the district.

**Dr. Eseli:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for that answer. However, a number of vacancies have arisen because of either retirement or death and those teachers are not immediately replaced. Could the Assistant Minister confirm to us that, from now henceforth, any district that loses a teacher through death or retirement will get the a replacement without waiting for the general recruitment?

**Mr. Mwatela:** Mr. Speaker, Sir, the policy of the Ministry is actually to directly replace teachers who pass away. At the moment, we are making an effort to reduce the shortages by allocating more teachers to schools. This depends on the Budget and I think you appreciate that we can only employ teachers whom we can pay.

**Mr. Ruteere:** Mr. Speaker, Sir, when teachers leave employment either through natural attrition or retirement, their positions remain vacant and the money they were earning had been allocated remains in the Budget. If there is no immediate replacement, where does their money go to?

**Mr. Mwatela:** Mr. Speaker, Sir, I would like assure the hon. Member that it is the policy of the Ministry to replace teachers, who leave the service through natural attrition, or retirement without, interrupting services to the pupils. So, if this has not happened by any chance, let us know so that we can act immediately.

**Mr. Baiya:** Mr. Speaker, Sir, the Assistant Minister has indicated that the student/teacher ratio is 1:52. That, as it is, is overloading the teachers and denying the students personal interaction



with the teachers. It is a very unsatisfactory situation! Is it good enough and what is the Assistant Minister doing? What is the recommended Government policy to deal with this challenge?

**Mr. Mwatela:** Mr. Speaker, Sir, I am in agreement with the hon. Member that, indeed, the ratio should be better than what it is. Fifty-two students in a class are too many for a single teacher.

Mr. Speaker, Sir, it is the policy of the Government that we lower that ratio, but this can only be done through employing more teachers, which means that this House should allocate the Ministry of Education more money than what it currently has.

**Mr. Wamalwa:** Mr. Speaker, Sir, now that the Assistant Minister has acknowledged that there is a serious shortage of teachers, not just in Kimilili but across the country, and given the threat that is being issued to sack all the teachers on strike, could he assure this House that he will find a more prudent way of dealing with this matter rather than creating further shortage and a crisis in the country?

*(Applause)*

**Mr. Mwatela:** Mr. Speaker, Sir, the current situation in the country, due to the strike, is not purely the creation of the Ministry. Indeed, the Ministry has tried all possible means to convince the teachers to take the increment in three phases. The situation is such that the economy of this country is unable to bear the burden of full payment of the increment at once. However, discussions are on and we hope that there will be a breakthrough soon.

**Mr. K. Kilonzo:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to tell this House that discussions are on to resolve the impasse which is there between the Kenya National Union of Teachers (KNUT) and the Government, yet the Government has closed the door and refused to negotiate with teachers? Now, we know that there is a stalemate and our children are suffering at home. Is he in order to mislead this House that the Government is doing anything other than embracing scandals?

**Mr. Mwatela:** Mr. Speaker, Sir, the Government has not closed the doors for discussion.

**Mr. Speaker:** Last question, Dr. Eseli!

**Dr. Eseli:** Mr. Speaker, Sir, now that the Assistant Minister does agree that the ratio of 1 teacher to 52 pupils is way over what it should be, that means that the teachers are overworked. Is the Assistant Minister satisfied that the current offer for remuneration in three phases is actually adequate to compensate for this kind of overwork to the teachers?

**Mr. Mwatela:** Mr. Speaker, Sir, as much as I may not be satisfied, the economy cannot bear a bigger increment than that.

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** That matter is rested!

Mr. Mbau!

*Question No.351*

NUMBER OF IDPS IN MURANG'A  
SOUTH DISTRICT

**Mr. Mbau** asked the Minister of State for Special Programmes:-

- (a) whether she is aware that thousands of people who were displaced from the violence-hit areas remain unresettled and continue to be housed and fed by friends and well-wishers, especially in Murang'a South District;
- (b) whether she could give the actual number of Internally Displaced Persons (IDPs) in the district; and,

(c) what plans the Government has to re-settle these people and to restore their lives to normalcy.

Mr. Speaker, Sir, as of now, I have not received the written answer.

**The Assistant Minister, Ministry of State for Special Programmes** (Mr. M.M. Ali): Mr. Speaker, Sir, I have the answer here. I can give the hon. Member a copy. Sorry for the delay. The answer was delayed because of several activities across the country.

I beg to reply.

(a) I am not aware that thousands of people who were displaced from violence-hit areas remain unsettled and continue to be housed and fed by friends and well-wishers as is indicated in the Question. However, I am aware that there are some people who registered as integrated IDPs and who, like other needy Kenyans, continue to receive Government support in terms of relief food.

(b) The actual number cannot be given at the moment because we have not received the register from the said District Commissioner (DC) but, after discussing with him, he has indicated to us that a register which he is sending contains names of about 2,000 IDPs in Murang'a South District.

(c) The Minister has used the following approach to resettle the IDPs countrywide, which will also be used to resettle integrated IDPs in Murang'a South:-

(i) We provide transport to the IDPs who wish to go back to their areas of displacement.

(ii) We assist them with Kshs10,000, for each household, as financial start-up.

(iii) We do assist the IDPs with Kshs25,000 each for those whose houses were destroyed.

(iv) The Government, through the Development Partners Initiative Support, constructs houses in some hard-hit areas where these donors have come forward.

(v) We do peace and reconciliation efforts in affected areas, above provision of relief food.

**Mr. Mbau:** Mr. Speaker, Sir, it is startling that, first, the Assistant Minister said that he is not aware of IDPs who came back to Murang'a South District, arising out of the post-election crisis. But in part "b" he states that it is estimated that there are about 2,000 IDPs in Murang'a South District. I would like to ask him when these 2,000 people were last given famine relief support, in terms of food, besides what the DC, well-wishers of the area and I have been doing in our own individual capacities. It would also be good for the Assistant Minister to tell us how many of these integrated IDPs have been supported, with the Kshs10,000 and Kshs25,000 each for reconstruction because I do not know of any. I would like to know where they are.

**Mr. M.M. Ali:** Mr. Speaker, Sir, first of all, I would like to correct the hon. Member. I have not said that I am not aware of the IDPs *per se*. What I said is that I am not aware that they are being fed by well-wishers and friends, as implied.

As far as the feeding programme is concerned, we send them monthly relief food and they are properly catered for. But as to when they will receive the cash and be taken back to their original homes, I would like to inform hon. Members that we have exhausted the budgetary provisions that we were initially allocated, that is, Kshs1.75 million. We received the last tranche on 16th January, 2009 and that is the money we are using currently to resettle the remaining balance of the IDPs, be it integrated or otherwise. The process delayed because the funds were exhausted towards the end of last year.

**Mr. J.I. Kamau:** Mr. Speaker, Sir, in Kigumo Constituency which is part of Murang'a South District, I happen to have over 600 integrated IDPs. The Assistant Minister seems not to be aware of these people. He has also said clearly that they have not received a single cent. Are these 600 plus people in my constituency part of the team that is going to benefit from the disbursement that the Assistant Minister is just about to make?

**Mr. M.M. Ali:** Mr. Speaker, Sir, I have just stated that we are waiting for the register from the DC. Communication from him indicates that there are about 2,000 IDPs. If the 600 IDPs are part of the ones that he mentioned, then they will benefit. In any case, even if they are not part of the same group that the DC mentioned and they are genuine integrated IDPs verified by the Provincial

Administration, then the Government will take care of the same group.

**Mr. Ethuro:** Mr. Speaker, Sir, I speak as the Chairman of Amani Forum. Last December, we were going to ensure that some of the camps that were in transit were being settled. In part "b" of the answer, the Assistant Minister says that it is estimated that there are 2,000 IDPs, but the actual number cannot be ascertained until a register from Murang'a South, which is only 40 kilometres from Nairobi, is yet to reach the Assistant Minister's office. Honestly, are you satisfied that the Assistant Minister knows what he is talking about?

Mr. Speaker, Sir---

**Mr. Speaker:** One question at a time!

Could you respond to that, Mr. Assistant Minister?

**Mr. M.M. Ali:** Mr. Speaker, Sir, Mr. Ethuro is good at pointing fingers when asking questions! I ask you to protect us from such kinds of gestures! Nonetheless, it is true that we have not received the register from Murang'a. I agree with the hon. Member that it should have been received by now. However, hon. Members must appreciate our difficulties as a Ministry.

Mr. Speaker, Sir, the Ministry of State for Special Programmes is based at the headquarters. Most of the information we use to resettle these people comes from the Provincial Administration. Therefore, we are incapacitated because of lack of personnel. Sometime in June last year, we wrote to the District Commissioners (DCs) across the country to give us the position of the Internally Displaced Persons (IDPs); whether integrated or otherwise. In areas like Murang'a where the DCs have not given us the registers, we have written a reminder to ensure that they give us that information.

**Mr. Speaker:** Ask your last question, Mr. Mbau!

**Mr. Mbau:** Mr. Speaker, Sir, these people the Assistant Minister is calling "integrated" are some of the people who were included in the DC's list of 109,000 persons in Murang'a South District alone, who are food-insecure. The Assistant Minister has said that the Ministry supports these people by giving them relief food. When was relief food last sent to Murang'a South District? This is the area that was hardest hit within the Central Province. This is probably mainly because of this extra load from the---

**Mr. Speaker:** Order, Mr. Mbau! Your question is, "when was food last sent to wherever?" Allow the Assistant Minister to answer it!

**Mr. M.M. Ali:** Mr. Speaker, Sir, food was last sent to the IDPs in Murang'a in January this year. However, for the 109,000 people he is talking about, they are facing starvation because of food shortage and we are revising the figures of those who rely on relief food. That will be tackled separately because it is a different Question. However, for the IDPs, we sent them food even this month.

*Question No.486*

MEASURES TO REDUCE HUMAN/  
ANIMAL CONFLICT IN  
TAITA DISTRICT

**Mr. Speaker:** Question No.486 is deferred to tomorrow afternoon. Mr. Mwazo is away on Parliamentary business.

*(Question deferred)*

*Question No.589*

CRITERIA USED IN DISBURSEMENT  
OF WEDF TO CONSTITUENCIES

**Mr. Chanzu** asked the Minister for Gender, Children and Social Development:-

- (a) what criteria is used in distributing money from the Women Enterprise Development Fund (WEDF) to applicants from constituencies; and,
- (b) what steps he is taking to ensure that money from the Fund is promptly availed to the many deserving applicants.

**The Assistant Minister for Gender, Children and Social Development** (Mr. Keya): Mr Speaker, Sir, I beg to reply.

(a) The criteria used to disburse money from the Women Enterprise Development Fund to applicants from constituencies are as follows:-

- (i) The group must be registered at the District Gender and Social Development offices.
- (ii) The group must have a bank account.
- (iii) The group must have a legally accepted business activity.
- (iv) Application must be received and recommended by Divisional Women Enterprise Development Fund Committee.
- (v) Applications must be approved by the Advisory Board of the Women Enterprise Development Fund.

(b) To ensure that money from the Fund is promptly availed to the many deserving applicants, my Ministry has put in place the following arrangements:-

(i) The Ministry has been partnering with 12 selected micro-finance institutions who lend to individual women entrepreneurs and women enterprise groups at a subsidized interest rate of 8 per cent per annum on a reducing balance. One of the micro-finance institutions, the Kenya Women Finance Trust (KWFT), has recently withdrawn its partnership with the WEDF.

(ii) The Constituency Women Enterprise Scheme targets grassroots women undertaking small scale businesses. In this respect, Divisional Women Enterprise Fund Committees have been established throughout the country to advise group applicants and recommend them for funding. There exists a secretariat that processes all applications countrywide.

(iii) The Advisory Board of the Women Enterprise Development Fund approves successful applications for funding after which cheques are disbursed to groups through the District Gender and Social Development officers.

During the one year that the Fund has been operational, a number of challenges which hinder prompt disbursement have been identified. These included; lack of details of the applicant's bank account, inappropriate type of activities for which the loans are sought, submission of application forms by certain groups without recommendation by the Divisional Women Enterprise Fund Committees as required, failure to meet some of the requirements for accessing loans through micro-finance institutions examples are; lack of collateral as required by some of the institutions and having to save a certain amount of money before qualifying for the loans.

Mr. Speaker, Sir, in order to address the above challenges and ensure that money is promptly disbursed to deserving applicants, the Ministry is taking the following steps:-

(i) Strengthening the Fund's secretariat through recruitment of a full-time director and staff of various cadres. Such recruitment has already been undertaken.

(ii) Capacity building in Divisional Women Enterprise Fund Committees and women groups.

(iii) Involving more micro finance institutions that have a wider coverage, are more accessible and have less stringent conditions.

(iv) Reviewing the existing guidelines for accessing the Fund.

**Mr. Chanzu:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for the

comprehensive answer and the efforts the Ministry is making in funding women programmes. However, what measures has the Ministry put in place to create more awareness and train the women so that they can utilise the funds they get?

**Mr. Keya:** Mr. Speaker, Sir, we have put in place capacity building mechanisms through the District Social Development Officers who go round teaching the women. This is also done through the District Development Officers and the Divisional Development Officers.

**Mr. Mwathi:** Mr. Speaker, Sir, the answer by the Assistant Minister was well researched. I recognise that this is the Ministry for Gender and not women alone! In order to defuse potential conflict in families, what measures is the Ministry putting in place to make this Fund accessible by men? Is the Ministry going to create a different Fund for men?

**Mr. Keya:** Mr. Speaker, Sir, that is a very good question. However, as you know, for a very long time, women have been marginalised. Now when we talk of "gender", we include everybody but, for the time being, we have mainly to cater for women. I have, however, taken your point and we shall put it across so that men can also have their Fund. I would like to request the hon. Member to ask men to start a *Maendeleo ya Wanaume* (MYW) organization.

**Dr. Laboso:** Mr. Speaker, Sir, is the Assistant Minister aware that some of the intermediaries they use are actually selling their own products using money from the Fund?

**Mr. Keya:** Mr. Speaker, Sir, we have not been very much aware, but given the amount of money that we have and the amount of money we gave the micro-finance institutions, it appears that they have given only very little. We shall, therefore, change tact and see what to do. It appears to be true that they are selling their products. We shall address that.

**Mr. Speaker:** Last question, Mr. Chanzu!

**Mr. Chanzu:** Mr. Speaker, Sir, I would like the Assistant Minister to assure this House that they are going to increase the number of officers at both district and constituency level so that the officers serving now can be more visible in the constituency.

**Mr. Speaker:** Order, Mr. Chanzu! You have not asked any question. You have just made a statement. The HANSARD has recorded that.

**Mr. Chanzu:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** No! It is Question Time, Mr. Chanzu!

Next Question, Mr. Ombui!

#### *Question No.261*

#### COMPLETION OF KISII-CHEMOSIT ROAD

**Mr. Ombui** asked the Minister for Roads what plans the Ministry has for the completion and improvement of the Kisii-Chemosit road to avoid erosion of the edges of the road.

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

My Ministry plans to use the routine maintenance funds budgeted for in the year 2008/2009 to plant grass on the side slopes and carry out stone fitting where necessary in order to protect the edges of the road from erosion. The proper completion will be carried out during the periodic maintenance of this road.

**Mr. Ombui:** Mr. Speaker, Sir, I thank the Assistant Minister for his answer. However, I am not satisfied with this specific answer because he has also indicated that there will be proper commissioning of this road.

The diversions leading to the feeder roads are not complete. Could the Assistant Minister

confirm whether the routine maintenance will take into account the installation of stoppers stated and at the same time ensure that the points leading to the feeder roads are properly made?

**Dr. Machage:** Indeed, Mr. Speaker, Sir, it is true that I am going to provide feeder roads to this road and also carry out the works this hon. Member has asked for. With regard to some roads, for example, the Nyamira-Kadongo section, I have actually put aside Kshs1.6 million for that purpose.

**Mr. Ombui:** Mr. Speaker, Sir, the Assistant Minister has indicated that the funds will be available in 2008/2009 financial year. It is almost five months to the end of the financial year. When is this work going to start? This is because---

**Mr. Speaker:** Order, Mr. Ombui! Once you ask the question, you do not go ahead to answer it yourself!

**Dr. Machage:** Mr. Speaker, Sir, it is true that part of the work has delayed. However, I am looking at the possibility of starting this work mid next month, or latest, the end of next month so that I can meet my target, which is finishing these works at the end of this financial year.

**Mr. Speaker:** Next Question, Mr. Odhiambo!

*Question No.378*

COMPLETION OF NAKURU-KISUMU  
AND NAKURU-ELDOROT ROADS

**Mr. Odhiambo** asked the Minister for Roads:-

(a) if he is aware that due to the deplorable state of the Nakuru-Kisumu and Nakuru-Eldoret roads, commercial and public transporters are withdrawing from the routes;

(b) if he could give the status and breakdown of the respective costs of the reconstruction of the roads, and indicate when the works will be completed; and,

(c) if he could increase the number of contractors on the said roads to ensure speedy construction.

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

(a) I am not aware that commercial and public transporters are withdrawing from the Nakuru-Kisumu and Nakuru-Eldoret Road. The Ministry has ongoing maintenance contracts for Mau Summit-Kisumu Road and a rehabilitation contract for the Njoro Turnoff-Timboroa Road. I, therefore, expect vehicle operation costs to go down as a result of the work I am doing on this road.

(b) The contract sum for rehabilitation of the Njoro Turnoff-Timboroa Road is Kshs4.3 billion. This project is scheduled for completion in April, 2009, while the rehabilitation contracts for Mau Summit-Kericho-Kisumu are under procurement and the contract sum shall be known after the tender valuation.

The contract sums for maintenance works are as follows: Mau Summit-Kericho, Kshs507 million; Kericho-Awasi, Kshs276 million; and, Awasi-Kisumu, Kshs343 million. The Mau Summit-Kericho-Kisumu contracts are expected to start in March, 2009, with a possible completion date of August, 2011. The cost of rehabilitating Timboroa-Eldoret-Webuye-Malaba Road will be known on finalisation of the engineering design and documentation that is ongoing now. The start and completion dates for the works on the Timboroa-Eldoret Road will also be known after conclusion of this procurement process.

(c) The maintenance works for Mau Summit-Kericho-Kisumu have actually been packaged into three separate contracts. The rehabilitation contracts are also packaged into three. It is not possible to repack the works into more contracts at this stage under the World Bank regulations.

With regard to the Njoro Turnoff-Timboroa Road rehabilitation contract, the contractor has

opened more working front in order to accelerate the work.

**Mr. Odhiambo:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given us. However, the road between Yala and Busia to Uganda is in very bad shape. What arrangements is the Ministry making to repair it?

**Dr. Machage:** Mr. Speaker, Sir, I am not able to answer that Question now because I have to look at the information available. It is a completely different Question from what he asked.

**Mr. Speaker:** You are quite right. It is a different Question.

**Mr. Odhiambo:** Mr. Speaker, Sir, is the Assistant Minister aware that there is a change of policy in the Ministry?

Normally, the funds that have been managed by the District Roads Engineers to cater for the Class C roads have now been moved to the Provincial offices. It will be difficult for us to---

**Mr. Speaker:** Order, Mr. Odhiambo! You have asked your question and the Assistant Minister has heard it. Allow him to answer it.

**Mr. Odhiambo:** Mr. Speaker, Sir, I will continue---

**Mr. Speaker:** No, you cannot continue. I heard your question.

**Dr. Machage:** Mr. Speaker, Sir, I am not aware. If the hon. Member has evidence of that sort of change with regard to use of finances from my Ministry, I welcome more information. But that cannot be my Ministry. It is not possible.

**Mr. Speaker:** Very well. Mr. Odhiambo, the Assistant Minister is not aware. Do you have any evidence?

**Mr. Odhiambo:** Mr. Speaker, Sir, I will give the evidence.

**Mr. Speaker:** You do not have it now?

**Mr. Odhiambo:** Not now, Mr. Speaker, Sir.

**Mr. Speaker:** Well, let the matter rest.

Next Question, Mr. Washiali!

*Question No.538*

CREATION OF MUMIAS  
COUNTY COUNCIL

**Mr. Washiali** asked the Deputy Prime Minister and Minister for Local Government that considering Mumias District has been curved out of the former Butere- Mumias District, when he will effect that change in the status of the local authority so that Mumias County Council is independently created.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): Mr. Speaker, Sir, I beg to reply. I have set up a task force to deal with the review of the Local Government Act. Among the areas to be looked into is the possibility of establishing a demarcation board which will determine the boundaries of the local authorities based on their viability. The Mumias case and, many others, will be determined by my Ministry after the submission of the report.

**Mr. Washiali:** Thank you, Mr. Assistant Minister. Could you, please, tell us the names of the members of the task force, when they will be visiting Mumias and when you expect to get the report?

**Mr. Githae:** Mr. Speaker, Sir, it is good to give a little history. When we entered the new Ministry, we found out that there was a policy that the Local Government Act should not be reviewed while awaiting the review of the Constitution. We have now decided that we are going to review the Local Government Act so that we can have a demarcation board that is going to determine boundaries

of local authorities.

**Mr. Speaker,** Sir, as we speak now, there is a fully-fledged committee from our Ministry and Attorney-General's Chambers meeting in Mombasa for one week to come up with the necessary amendments to the Local Government Act to empower the Minister to establish a demarcation board which will determine the necessary boundaries for local authorities.

**Mr. Ethuro:** Mr. Speaker, Sir, five years ago, I raised a Question in this House about the demarcation of Lodwar Municipal Council from the larger Turkana County Council. The Minister then promised to set up a task force.

Today, the Assistant Minister has said that he has set up a task force. He has also said that he went to the Ministry and found out that they cannot review the Local Government Act because they are waiting for the new Constitution.

Mr. Speaker, Sir, is he in order to continue misleading the House and not doing his job?

**Mr. Githae:** Mr. Speaker, Sir, I think there is nobody who is misleading the House. I think the hon. Member did not get what I have said.

Mr. Speaker, Sir, creating a local authority is the easiest thing a Minister can do. That is because under Sections 5, 6, 8 and 10 of the Local Government Act, he is authorised to establish any area to be a municipality, town council or county council. He is also authorised to assign or alter the name of a local authority. He is also authorised to alter the boundaries of local authorities. He is also authorised to transfer a municipality to a county council or a municipal council. But what we are saying is this: We have to look at the concept of Local Government as a country. That is because as of now, if we were to create local authorities based on districts as has been the case, some of the new districts would be completely uneconomical and unviable.

Mr. Speaker, Sir, the purpose of local authorities is to render services. The purpose of districts is to bring administration closer to the people. So, we are looking at the various models of how we can assist local authorities. For example, we could assist by employing for them the top six officials. That is because some of them will not be viable.

**Mr. Speaker:** Last Question, Mr. Washiali!

**Mr. Washiali:** Thank you, Mr. Speaker, Sir. You have just heard the Assistant Minister say that he has set up a task force. I asked a supplementary question asking for the names of the members of the task force. Unless he tells this House that he does not know the names of the members of that task force---

**Mr. Speaker:** Order, Mr. Washiali! Your question is whether the Assistant Minister could give the names. Mr. Assistant Minister, proceed!

**Mr. Githae:** Yes, Mr. Speaker, Sir. I have said that our top officials from the Ministry are in Mombasa. I can give their names. For example, we have the Legal Officer, one Mr. Lome. We also have some State Counsel from the Attorney General's office. I do not have their names here, but I can get them. The most important thing is not the names, but to know that the process has began.

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

**Mr. Speaker:** Order, hon. Members! The Assistant Minister has indicated that--- He has given one name. He has said that the rest are State Counsel. If hon. Members are interested, surely that information would readily be available in the Assistant Minister's office. This is not a matter to delay business here.

**Mr. Were:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it?

**Mr. Were:** Mr. Speaker, Sir, when Mr. Washiali asked his supplementary question, he asked:



When will the report be made available? We want to know that!

**Mr. Speaker:** Mr. Assistant Minister, that is legitimate.

**Mr. Githae:** Mr. Speaker, Sir, within the next three months, that report will be available. It will show the local authorities that are viable, the ones that are not viable and how we can assist the ones that are not viable. The intention is not to abolish local authorities for the sake of it, but to enable them to give services to Kenyans.

**Mr. Speaker:** Hon. Members, that will bring us to the end of Question Time. Questions Nos.299 and 425 are deferred. Question No.299 will be deferred to tomorrow morning and Question No.425 to tomorrow afternoon, subject to the Ministers concerned giving to the House an account of where they were and why they were not in the House in time to answer these Questions.

Question No.299 belongs to the Minister of State for Public Service.

*Question No.299*

NON-PAYMENT OF GOLDEN HANDSHAKE  
TO RETRENCHED CIVIL SERVANTS

**The Minister of State for Public Service** (Mr. Otieno): Mr. Speaker, Sir, I am able to answer this Question--

**Mr. Speaker:** Account for where you were!

**The Minister of State for Public Service** (Mr. Otieno): Mr. Speaker, Sir, I apologise. I was in the House, but I had to run back to the office to bring the written answer. By the time I was back, you had passed like lightning.

**Mr. Speaker:** Very well. Ensure you are available tomorrow morning to answer the Question.

**The Minister of State for Public Service** (Mr. Otieno): Thank you, Sir.

*(Question deferred)*

*Question No.425*

INFESTATION OF LAKE TURKANA  
FISHERIES BY PARASITES

**Mr. Speaker:** The Minister for Fisheries Development!

**The Minister for Fisheries Development** (Mr. Otuoma): Thank you, Mr. Speaker, Sir. I also apologise. I had just stepped out briefly for something personal and, by the time I came in, the Question had been asked. But I promise to do that tomorrow afternoon.

*(Question deferred)*

**MINISTERIAL STATEMENTS**

**Mr. Speaker:** Very well. We have Ministerial Statements pending. Those who are issuing Ministerial Statements, please, ensure that you respect the rule pertaining to brevity.

First, the Minister for Transport!

LEASE OF LAND BY KAA TO AFRO-ASIAN  
INVESTMENT CORPORATION

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, I beg to issue a Ministerial Statement on the lease of land by Kenya Airports Authority to the Afro-Asian Investment Corporation of Qatar for the construction of a hotel cum trade and exhibition centre at Embakasi in Nairobi.

Mr. Speaker, Sir, Kenya Airports Authority and the Afro-Asian Investment Corporation of Qatar are in the process of developing a hotel cum trade exhibition centre. The location of the project is at the Jomo Kenyatta International Airport and its capital outlay is estimated at US\$350 million. The project will comprise the following facilities:-

A 450-room five-star hotel with the usual amenities to be used by transit passengers, participants in conferences and meetings and airline crew.

A four-star hotel with 300 rooms, an exhibition centre comprising a main exhibition centre and auxiliary exhibition sub centres.

A convention centre incorporating a main convention centre and auxiliary convention centres, five office towers of ten floors each to be used as trade centre facilities, warehouses where exhibitors would store merchandise, a power plant to complement the main grid, two boreholes to ensure availability of water and a modern hospital with a 200-bed capacity.

Mr. Speaker, Sir, the Kenya Airports Authority will lease 90 acres of land for the development of those facilities on a build- operate and transfer basis. The lease period will be 80 years at the expiry of which the land, together with the structures, will be transferred to the Kenya Airports Authority.

Mr. Speaker, Sir, whereas the project was ultimately approved by the Cabinet, preliminary approvals were accorded by the KAA Board of Directors, the Ministry of Transport, State Law Office, the Ministry of Finance, the Public Procurement Oversight Authority and the relevant Cabinet Sub-Committee.

Mr. Speaker, Sir, in conformity with the lease agreement, all pertinent issues under tenant terms and conditions for development will be complied with. The development will be carried out solely at the cost and risk of the investor. That is without monetary contribution by the KAA, the Government or any other Government agency. The following are some of the potential benefits of the said project to the national economy, the aviation industry and the KAA, in particular.

(i) The project will boost the economy and trade through increased consumption of goods and services, increased job opportunities and transfer of technology, amongst others.

(ii) The project will lead to higher revenue collection, given that it will enhance passenger traffic growth and increase the number of airlines operating at the Jomo Kenyatta International Airport (JKIA).

(iii) Kenya will have a unique, and probably the largest expo cum convention and trade centre ever established in the African continent. Subsequently, the availability of this state of the art facility, with the latest technology, will make Nairobi an attractive destination for meetings, conferences and exhibitions.

(iv) The project will enhance Kenya's position as a major tourist destination.

(v) The exhibition centre will be used to showcase Kenya's produce.

(vi) The project will attract direct foreign investment in its construction and operation stages, and additional investments by various companies that will set up activities at the trade centre.

Finally, with regard to whether an environmental impact assessment has been carried out in accordance with the provisions of the National Environmental Management Authority (NEMA) Act, and whether a feasibility study and due diligence were carried out, I wish to state that having signed the agreement, the parties, the KAA and the investor, have up to 18 months to comply fully with our regulations pertaining to environmental management, and so on, prior to the commencement of construction within the same period. Considering that neither the KAA nor the Government shall invest funds in the project, an investor's feasibility study has already been taken by the investor, and the

Government has accepted the viability report of the project.

**Mr. Speaker:** I will allow five clarifications. Let us begin with Mr. Thuo.

**Mr. Linturi:** Mr. Speaker, Sir, I am the one who sought the clarification?

**Mr. Speaker:** Was it yours? Do not worry, it belongs to the House now.

**Mr. Thuo:** Mr. Speaker, Sir, I wanted to ask the Minister now that, in the past our land has been used to reward politically-correct people, but, for the first time, I can see what looks like a very good project, could he clarify how many more of such projects the Government is proposing, where and whether we can continue with that trend?

**Mr. Linturi:** Mr. Speaker, Sir, in view of the magnitude of this project, I would like the Minister to clarify the following. Who represented the Government during the signing of the agreement and was the due process for picking the investor clearly followed, or was it done selectively. Finally, why did the Government lease the land for 80 years which is a longer period than the normal lease period which of a maximum of 30 years?

**Dr. Khalwale:** Mr. Speaker, Sir, in view of the very long period of 80 years, which is unusual, and the colossal amount involved, and given that the Cabinet gave approval, did it not occur to the Minister that it was also important for approval to be sought from Parliament?

**Mr. K. Kilonzo:** Mr. Speaker, Sir, I would like clarification on the following issues. I want the Minister to tell this House who are the directors of Afro-Asian Company, how old the company is, and what the share capital of this company is. If possible, I want the Minister to table here, their financial statement. Secondly, I would also like the Minister to tell us, before this report was taken to the Cabinet, did it go through a competitive bidding internationally and locally?

Could a local company have been accorded the kind of privilege this company was accorded? Lastly, we want to know who is the legitimate Managing Director of the KAA, because a day before the agreement was signed, the Chairman and his Board told us that the Managing Director had been sacked, just for him to appear on the material day to sign the contract. The Minister himself confirmed that he was the appointing authority. What is the legality of this contract or is it another Anglo Leasing scandal in the making?

**The Minister for Transport (Mr. Mwakwere):** Mr. Speaker, Sir, I will start with the latest question from Mr. K. Kilonzo. The Managing Director of the KAA is Mr. George Muhoho, appointed by the appropriate authority, that is, the Minister for Transport. He is still in office and doing an excellent job. What appeared in the press was a naughty press release. I do not know where the reporter got that information from, because even the Chairman of the Board denied having given out such information.

Mr. Speaker, Sir, as to who represented the Government at the signing ceremony, the KAA, as a parastatal under the Ministry of Transport, represented the Government since all requisite authorities and approvals had been obtained from the Government, starting from the Board itself, the Ministry of Transport, the Ministry of Finance, the State Law Office, the Public Procurement Oversight Authority, the Cabinet Sub-Committee under which matters relating to the Ministry of Transport are discussed and the Cabinet. So, they had full authority to represent the Government and so they did.

The process of picking an investor is a very unique one, in the sense that it is a fast in encouraging foreign investors to come to Kenya. This is a process that is done in countries like Malaysia, Djibouti and Rwanda. They go ahead and invite investors who have substantial investment that would spur economic development. I can assure the House that if there is any investor in the world today with US\$350 million and a project that will create employment and improve our economy, then we will be ready to give that investor even more than 90 acres of land.

**Mr. Mbadhi:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order! The Minister will be heard!

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, I am told 80 years is a long time for a lease. My answer is no; if you take some institutions or facilities that are in Nairobi here--- You may check your records but take, for example, the Intercontinental Hotel or the Hilton Hotel; you will find that those leases run for 99 years and yet they have exclusive use of the land. They are creating employment, contributing to the growth of our economy and improving tourism. In other words, 80 years with such an investment is an opportunity that should not be lost. If they had asked for a longer period than that, I would definitely have supported it but they only asked for 80 years. Less than 99 years, that is accorded to single hotels in Nairobi and elsewhere.

Mr. Speaker, Sir, there was a question asked on who are the directors of the Afro-Asian Company. I am not in a position to give the names now but I am ready to table them here as soon as possible with all the details that have been requested by hon. Kiema.

**Mr. K. Kilonzo:** On a point of order, Mr. Speaker, Sir. I expressed my fears that this could be another scandal in the making. How could a Minister of the Government come to this House to defend a company whose directors he does not know? Neither does he know the share capital. Would I be in order to ask you to tell him to go back and come with the proper information?

*(The Minister for Transport  
(Mr. Mwakwere) stood  
up in his place)*

**Mr. K. Kilonzo:** Mr. Speaker, Sir, could you protect me?

**Mr. Speaker:** Order, Minister!

**Mr. K. Kilonzo:** Thank you, Mr. Speaker, Sir. Would I be in order to ask the Minister to go back and come with the proper information on the directorship and ownership of this company before we proceed?

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, if the hon. Member was listening carefully, I said we have all those details. I am ready to table them even tomorrow. I do not go round cramming names of people which can be so complicated since they start with the words "Al". I am ready to table the names as early as tomorrow.

**Mr. Speaker:** Order, Minister! Can you respond to the other clarifications sought so that we leave the matter of ownership alone for tomorrow?

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, there was a question also, on whether there was competitive bidding internationally before the report was tabled to the Cabinet. My point here is that it is a strategy of inviting foreign investors and this is what is obtaining today in countries like Malaysia, Djibouti and even nearer home in Rwanda.

**Mr. Mbadi:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to tell this House that he flouted public procurement rules just to encourage foreign investment?

**The Minister for Transport** (Mr. Mwakwere): Mr. Speaker, Sir, for the information of the hon. Member, under the law you can procure by invitation and we should not lose opportunities just because we want to operate on only one side of the possibilities that are open.

**Mr. Mbadi:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mr. Mbadi! You have been heard on your point of order and the Minister has given what I consider a satisfactory response. Unless you are going to be able to cite a particular section of the Procurement Act that contradicts the position that the Minister has put to the House. Be careful because if it is not a point of order that is valid, according to the Standing Orders, you will be out of order!

**Mr. Mbadi:** Mr. Speaker, Sir, it was just a further clarification. If the Minister is saying that they can procure through invitation, how many foreign firms were invited?

*(Applause)*

**Mr. Speaker:** Order, Mr. Mbadi! The Minister said that the provisions of the Procurement Act allow for tendering and acceptance by invitation. All right! I cautioned you that unless you are able to come up with a specific provision by way of a section of the Act or a provision in subsidiary legislation under the Act that contradicts the Minister's position, you will be out of order and indeed you are out of order! So, I order that you withdraw from the House for the rest of this afternoon!

**Mr. Mbadi:** On a point of order, Mr. Speaker.

**Mr. Speaker:** Order, Mr. Mbadi! You have to comply with the Speaker's direction!

*(Mr. Mbadi withdrew  
from the Chamber)*

**Mr. Speaker:** Mr. Minister!

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

**Mr. Speaker:** Order, hon. Members! I urge all hon. Members to acquaint themselves with the provisions of the Standing Orders and it states clearly in black and white that if you raise a false point of order, then you are out of order. It is so unequivocal. I mean, there is no doubt about it and we must begin to apply the rules. As far as I am concerned, the learning period is over! We have done more than a year and we must now learn to live within the rules. I will apply them.

Minister!

**The Minister for Transport** (Mr. Mwakwere): Thank you, Mr. Speaker, Sir. Finally, there was a question relating to the area of land that will be leased to the Afro-Asian Company. It is 90 acres at the Jomo Kenyatta International Airport (JKIA). JKIA owns 12,000 acres of land and out of them, we are making use of 3.5 acres for the runway, buildings and storage facilities. We have already set aside 6,000 acres for the possible construction of a second runway, probably in the next 20 years because our landings and take-offs do not yet justify the construction of a second runway. However, we have land set aside for that.

Altogether, we have 2,000 acres of land which can be used for other development. So, we have leased only 90 out of the 2,000 acres that are available for further development for the good of the nation. So, I think we are justified to have just set aside 90 acres and we have a balance of 1,910 acres still to work on for further development.

Thank you.

**Mr. Speaker:** Order, hon. Members! The next Ministerial Statement is by the Minister for Foreign Affairs on his own Motion on a matter that he considers important under his portfolio.

DELEGATION TO THE 4TH JOINT  
COMMISSION FOR KENYA  
-CUBA CO-OPERATION

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Speaker, Sir, for giving me an opportunity to make an unsolicited Ministerial Statement.

Mr. Speaker, Sir, on the 13th of this month, I led a delegation to Cuba. My delegation included the Minister for Medical Services, Prof. Anyang'-Nyong'o, the Minister for Sports and Youth, Prof. Sambili and other senior Government officials. The purpose of the meeting in Cuba was to

pursue the 4th Joint Commission for Co-operation between Kenya and Cuba.

Mr. Speaker, Sir, at the end of our meeting, we were able as a team and I did on behalf of the country, sign the following agreements: An agreement of collaboration between the Export Promotion Council of Kenya and the Export Promotion Council of Cuba; an agreement for mutual recognition of academic credentials between the Government and institutions of Cuba and Kenya.

Mr. Speaker, Sir, we were able to sign an agreement to enhance co-operation in sports. We were also able to sign a general conditions agreement that governs all agreements between the two countries. Of great significance, we were able to negotiate and get an enhancement of scholarships from Cuba to Kenya which are 100 percent funded by the Government of Cuba from 5 to 12. This will include specialised medical training courses in areas like dermatology, ENT and others. Suffice to mention that Cuba has one of the most advanced medical facilities in the world. It exports more than 58,000 doctors to various countries.

We also agreed that Cuba will send to Kenya an average of 200 doctors to assist in running our medical facilities. While in Cuba, I want to salute a great Kenyan who lives in Vancouver, Canada called George Imbinza, who donated 40 laptop computers that we in turn donated to our students who study in Cuba who number 64. I salute this great Kenyan because he is an entrepreneur in Canada and he flew all the way to donate these computers.

Mr. Speaker, Sir, from Cuba, we went on to the United States of America. My delegation still included the hon. Members I mentioned with an addition of two colleagues from the Back Bench, Mr. Eugene Wamalwa and Mr. Hassan Joho, nominated by Parliament to join us. The Minister for Tourism, Mr. Najib Balala, was already in the USA promoting tourism. One of the milestones he achieved was that he has managed to fast-track the flying of Delta Airlines from America to Kenya which will start in due course. It will fly from Atlanta-Dakar-Nairobi; Nairobi-Dakar-Atlanta. This will be a major boost for tourism.

Mr. Speaker, Sir, while in America, we formed part of the great exuberance of the world in celebrating the ascension to power of President Barack Obama. Before I left here, I called the Press and made it clear that the tradition of the United States is that they never invite official delegations from any country including Canada, which is their neighbour, to attend the inauguration of their Heads of State. We were going to participate in major events which we did. One, there was a major delegation from Kenya to join our brothers and sisters in the United States to celebrate this great event.

Secondly, there was a major Pan African event to which your foreign Minister was invited to give a keynote address, which I did. This event was organised by all African countries because there is not a single African country that is not represented in Washington. The AU through its Vice-chairman, Erastus Mwenje of Kenya was there and many others. In the course of being there, we attended the following beneficial meetings: We attended the Martin Luther Memorial where our Ambassador in the USA was given an honour. More importantly, it was an event that was marking the turning point in history where the words of Martin Luther King that men and women will be judged, not by the colour of their skins but by the content of their character came to fruition.

Mr. Speaker, Sir, thereafter, I had a meeting with the following results. I met the Chairman of the Congressional Committee on African Affairs, Congressman Donald Payne and others, where we discussed several issues of bilateral nature between the Government and the people of Kenya and the United States of America. It may be recalled that Donald Payne has visited this country several times, including this 10th Parliament.

Mr. Speaker, Sir, thereafter, I had a meeting with the World Bank where we had the following successes. We were able to convince the World Bank to release to Kenya US\$120 million to ameliorate and mitigate the famine problem that we have in this country. This will be done in the next fortnight. I was able to visit the Millennium Challenge Management Office where Kenya has lost out a

tranche of US\$1 billion per annum from the United States; a tranche that countries like Tanzania, Namibia and Philippines are getting.

I learnt that the only problem we have in accessing that amount is the question of corruption in Kenya. All other indicators are right; education, health and others except corruption. We are below the threshold by only five points. We are at 48 and we require a threshold of 53.

Mr. Speaker, Sir, since I came back, I have briefed my colleagues. I want this House to join us together as one, fighting the nightmare of corruption to enable this country access a tranche of Kshs1 billion which is not a loan. It is a grant that is given to developing countries to various sectors. It is repeated annually. It is not a one-off event. If you look at the website on what Millennium Challenge Account means, you will be able to follow.

**Mr. Speaker:** Order, Mr. Minister! You have spoken for 10 minutes. It was agreed that you would speak for seven minutes.

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Speaker, Sir, I have two points to go.

Finally, there was a question relating to the road between Nakuru, Kericho and Busia. At the meeting with the World Bank, we were able to unlock the jinx that had followed the funding by the World Bank of that road. We were given a firm assurance that the money for the road from Mau Summit-Kericho-Kisumu and Busia will be disbursed and the road will be done.

I was able to meet the Assistant Secretary of State for the simple reason that my counterpart, the Secretary of State, had not been sworn in, so she was not in office. We discussed regional issues including the implementation of the CPA Southern Sudan, the problems of Somalia including piracy, the problems of Congo which Kenya is chairing and how the new leadership in the USA can join this region in bringing peace, security and development in the region.

I want to end by urging my colleagues to look and focus on the substance more than the form.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Very well. I will allow three clarifications and each of you will be allowed to raise one issue.

**Mr. Imanyara:** Mr. Speaker, Sir, I would like to commend the Minister for a very successful trip to the United States of America (USA). I also want him to clarify whether his trip suffered any setbacks in terms of having any visa denials to any members of his delegation. In view of the very unfortunate statements that were made prior to the election of President Barack Obama, whether he has any intention of effecting any changes at our Mission in Washington DC.

**Mr. Speaker:** Very well!

Yes, Dr. Khalwale!

**Dr. Khalwale:** Mr. Speaker, Sir, I also want to congratulate the Minister, but he has said something very interesting - that he has secured US\$120 million as support for the crisis we are having in the country. In view of this, is it still necessary for us to go ahead with the Motion that we passed, which granted the Government US\$100 million, now that we have free money?

**Mr. Okemo:** Mr. Speaker, Sir, I also wish to join my colleagues in congratulating the Minister on a successful trip to the USA, but is it really in order for the Minister to mislead this House about having been able to access money from the World Bank?

There are very clear procedures for accessing either loans or grants from the World Bank. This falls squarely within the province of the Ministry of Finance. We know what those procedures are. I believe that even if Mr. Wetangula had not gone to the USA, that money would have been released. However, I wish to thank him for being able to, at least, get a couple of doctors from Cuba.

*(Laughter)*

**Mr. Speaker:** Yes, Mr. Minister!

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Speaker, Sir, I will start with the issues raised by Mr. Okemo.

I know that procedure can be followed, but I also want to inform the House that while I was out of the country, the then Acting Minister for Finance, Mr. Michuki, wrote a letter which was addressed to me and faxed to our Mission in Washington DC.

The content of the letter was that discussions had been taking place, but they were stuck somewhere. He requested me to go to the World Bank and fast-track the release of this money. At no time did I say that I went to negotiate to secure a loan. I said that I helped in unlocking the fast release of the money. That is what I did. I also thank him for thanking me for bringing Cuban doctors.

Regarding the issues raised by Mr. Imanyara, I am not aware of any visa denial, because when I did write to your office to indicate that I had trip and if Parliament was inclined to nominate some hon. Members to go with me, I found myself with two colleagues. I believe those are the ones which the House nominated. If there was any other hon. Member who was nominated, I have no information.

On the question of the ambassador, ambassadors serve and are subsequently recalled or changed. When that time comes, I am sure, we will be able to do so.

Mr. Speaker, Sir, on the issue raised by Dr. Khalwale, there are two things: I believe that what was brought to this Chamber was an issue to do with procurement of a loan from the Government of the USA. What I am talking about is the World Bank. So, we are talking of two different institutions. Certainly, the US\$120 million will not mitigate fully, our problem of famine. So, we should still pursue both, and pursue even much more money else-where to help buy food, help the farmer with inputs and so on.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Very well.

## POINTS OF ORDER

### RE-APPOINTMENT OF MR. KIMUNYA TO CABINET

**Dr. Khalwale:** Mr. Speaker, Sir, I rise on a point of order to seek for clarification from the Chair in respect of the re-admission to Cabinet of Mr. Amos Kimunya, in view of the following: That, Parliament, through a Motion of censure, successfully passed a no-confidence vote in Hon. Kimunya; that a Committee of this House, chaired by Mr. Okemo, investigated the involvement of Mr. Kimunya in the irregular sale of the Grand Regency Hotel and, indeed, indicted him, although the Committee's Report is yet to be debated by this House; that, the Cockar Commission of Inquiry established by His Excellency the President to investigate the matter has neither had its Report made public nor tabled in this House, in spite of this Committee using public funds and allegedly concurring with the decision of this House on the involvement of Mr. Kimunya; and that no independent institution in this country - commission or any other authority - has to date cleared Mr. Kimunya from the other grounds that culminated in his removal, namely, the Initial Public Offer (IPO) of Safaricom, privatisation of Telkom Kenya and the *De la Rue* for the supply of new generation Kenya currency notes.

Mr. Speaker, Sir, what are the constitutional implications of the Executive defying and ignoring Parliament, which is the supreme law-making organ, including the very Constitution that creates the President as the Head of the Executive? Finally, what is the way forward for this apparent constitutional crisis pitting the Executive against the Legislature?

Thank you, Mr. Speaker, Sir.



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

**Mr. Speaker:** What is it, Mr. Konchella?

NON-CONSTITUTION OF TRANS MARA  
COUNTY COUNCIL

**Mr. Konchella:** Mr. Speaker, Sir, before we went on recess in December, 2008, I rose on a point of order to request a Ministerial Statement from the Office of the Deputy Prime Minister and Ministry of Local Government on matters relating to Trans Mara County Council.

Mr. Speaker, Sir, the council is yet to be constituted. The people of Trans Mara are not enjoying the benefits of the services of the Ministry, because their councillors are at home. The council has not been operational for more than a year. This is an embarrassment to the people of Trans Mara and they wonder whether they are part of Kenya.

**Mr. Speaker:** Mr. Minister, when will the Ministerial Statement be available?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae):** Mr. Speaker, Sir, the Ministerial Statement will be issued on Thursday, this week.

**Mr. Speaker:** It is so ordered!

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

What is it, Mr. Imanyara?

INCLUSION OF MOTION ON ADOPTION OF  
REPORT ON SALE OF GRAND REGENCY  
HOTEL IN HOUSE BUSINESS

**Mr. Imanyara:** Mr. Speaker, Sir, I just want to seek your clarification, in view of the issues raised by Dr. Khalwale and, obviously, the constitutional implications involved. Would it be in order for the Motion appearing on the Order Paper as Order No.13 to remain on the Order Paper before you make the clarifications sought on the issues that have been raised by Dr. Khalwale?

This is a country which recognises separation of powers amongst the three Arms of the Government - the Executive, the Legislature and the Judiciary. Since the President is also a Member of Parliament and, therefore, is deemed to have taken the decision that we took in passing a vote of no confidence in Mr. Kimunya, I would also like to know whether he did not act in gross contempt of this House and anticipated the debate that would follow directly out of the Motion that is to be introduced by Mr. Okemo. Would it be in order to continue having this Motion on the Order Paper before you give that clarification?

*(Ms. Karua stood up in her place)*

**Mr. Speaker:** What is it, Madam Minister?

HANDLING OF CRITICAL ISSUES  
BY PARLIAMENTARY  
COMMITTEES

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Speaker, Sir, I also rise to just seek your clarification, as you give your ruling, on the role of Parliamentary Committees and the need for Members of such Committees to ensure that, as they tackle matters, they are devoid of conflict of interest, and what Parliament should do when it is quite apparent that a matter has been tackled by either the Members of such a Committee, or by some of the Members of such a Committee, in a manner that is not quite impartial.

Secondly, Mr. Speaker, Sir, there is also the role of the Committees in presenting their reports promptly to Parliament. That goes beyond the Report that Dr. Khalwale was talking about. It goes to a series of reports and to the manner in which Parliament and its Committees are handling certain critical issues of this nation, in a manner that may lead the country thinking that a partisan role is being played. The issues being talked about are critical and there is need for us to be totally above board.

*(Applause)*

### COMMUNICATIONS FROM THE CHAIR

#### MR. SPEAKER TO ISSUE CONSIDERED RULING ON SALE OF GRAND REGENCY HOTEL

**Mr. Speaker:** Order, hon. Members! I have heard the sentiments expressed in the point of order raised by Dr. Khalwale and supplemented by hon. Imanyara. I have also heard the concerns of the Minister and, indeed, the issues canvassed by the Minister very ably.

Hon. Members, the matters raised bring to the fore important questions relating to the doctrine of separation of powers and, in particular, the relationship between this House and the Executive arm of the Government. Dr. Khalwale also raises important constitutional questions relating to the powers of this House; so does hon. Imanyara and the honourable Minister. Hon. Members, there is no doubt that these are weighty matters that call for careful reflection by the Chair. In order to give these matters the due attention that they deserve, I undertake to give a considered ruling on Thursday, 29th January, 2009, at 2.30 p.m.

#### PRIORITIZATION OF BUSINESS BY HBC

Hon. Members, I am, however, appealing to the House Business Committee to prioritize the Motion by the Departmental Committee on Finance, Planning and Trade on the sale of Grand Regency Hotel. This Motion should get priority tomorrow, Wednesday, the 28th January, 2009, during the afternoon sitting.

Hon. Members, I note the concern by hon. Imanyara as to whether or not it would be prudent or expedient to remove this matter from the Order Paper until such a time that I make my ruling. But I will give some direction tomorrow even as this matter is on the Order Paper, assuming that the House Business Committee will respect the directions made by the Chair.

Hon. Members, I have a communication which is of a generalised nature, but it is called for by the unique circumstances of the moment.

*(Several hon. Members stood at the Bar)*

Hon. Members who are at the Bar may come in. It will take a few minutes.

*(Hon. Members standing at the Bar)*

*walked into the Chamber)*

This communication, hon. Members, is called for by the unique circumstances in which we find ourselves as a House and, indeed, as a country.

Hon. Members will recall that the House reconvened on 20th January, 2009, upon request to that effect by the Government, pursuant to the provisions of Standing Order No.7, which *inter alia* provides:-

"Whenever during a Session the House stands adjourned, whether or not a day has been appointed for the next meeting, Mr. Speaker shall, at the request of the Government, appoint a day or, as the case may be, a day other than the day already appointed for the

meeting of the House and, such day, having been notified to the Members, the House shall meet thereon at such time as shall be appointed by Mr. Speaker."

In making the request, the Government had indicated that a number of important legislative matters remained outstanding when the House adjourned *sine die* on 17th December, 2008.

Several hon. Members have, on the Floor of the House, expressed concern that important legislative matters that required the attention of the House when it was recalled, have not been attended to.

As hon. Members are aware, it is the responsibility of the House Business Committee to consider such matters as may, from time to time, arise in connection with the business of the House.

Hon. Members, the business so placed in the Order Paper shall be disposed of in the sequence in which it stands upon the Order Paper, or in such other sequence as Mr. Speaker may, for the convenience of the House, direct, pursuant to Standing Order No.31(2).

Hon. Members, in view of the concerns raised by hon. Members as aforementioned, and the pending Report awaiting deliberations by the House, I appeal to the House Business Committee to take cognisance of the concerns raised by hon. Members and prioritise legislative matters for which the need for reconvening of the House was advanced and, in particular, issues raised under Agenda 4 of the National Accord and Reconciliation as well as other matters touching on the constitutional review process.

*(Applause)*

In particular, I request the Committee to consider giving due priority to business appearing in today's Order Paper No.10, touching on the Report on the Commission of Inquiry into Post Election Violence (CIPEV).

I thank you!

*(Applause)*

Next Order!

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. Coming directly out of your ruling, may I then invite you to exercise your discretion under that same Standing Order and order that we go straight to Order No.10, rather than wait for the House Business Committee. The business is already on the Order Paper?

**Mr. Speaker:** Order, hon. Members! Before I give any directions on that matter, I would like to hear the position of the Minister for Justice, National Cohesion and Constitutional Affairs!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Speaker, Sir, I am able, ready and willing.

*(Applause)*

**Mr. Speaker:** Order, hon. Members! That being so and, with that very firm indication from the Minister that is completely unwavering, I will respond to her indication by exercising the discretion that the Chair has pursuant to Standing Order No.31(2), and order that we proceed to call Order No.10!

*(Applause)*

## MOTION

### ADOPTION OF CIPEV REPORT

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report on the Commission of Inquiry into Post Election Violence (CIPEV) laid on the Table of the House on Thursday, 4th December, 2008.

Hon. Members will recall that one of the agreements at Serena Hotel was that we appoint a "baby" commission, or a commission that would quickly inquire into the circumstances surrounding the post-election violence, report back within three months and give us a way forward on how to resolve issues that arose as a result of the post-election violence. That Commission was formed with the clear knowledge that we will still have a Truth, Justice and Reconciliation Commission (TRJC), which would then deal with the historical injustices and other matters.

*[Mr. Speaker left the Chair]*

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

Madam Temporary Deputy Speaker, hon. Members will recall that, that Commission, which is popularly known as "the Waki Commission" was formed, received evidence from witnesses and came up with recommendations, which were presented to the President and the Prime Minister, as had been agreed in the Gazette notice.

Key among the recommendations of the Waki Commission was that a special tribunal to be known as "the Special Tribunal for Kenya" be set up as a court that will sit within the territorial boundaries of the Republic of Kenya, and seek accountability against persons bearing the greatest responsibility for crimes, particularly crimes against humanity, relating to the 2007 General Election in Kenya.

I would wish to refer hon. Member to page 475 of the Waki Commission Report for more particulars of that recommendation. It was also recommended that the special tribunal shall apply Kenyan law, and also the International Crimes Bill once it was enacted, and shall have international judges as well as Kenyan and international staff.

It is recognised by all, and I am sure by hon. Members as well as citizens, that matters arising from the General Election of 2007 are matters that deeply divided this nation, and matters that always evoke emotions when they are discussed by hon. Members. As such, it is of utmost importance that we follow the Waki recommendations, of having a special tribunal that will apply international and local laws, and that will also have a local and international components.

Recent political discourse in the newspapers, and among ourselves, show that we still regard one another with a measure of suspicion, and that at the slightest provocation we become very wary of the actions of one another across the political divide.

It is, therefore, important that we seek our friends from the international community to sit with us as we resolve post-election violence offences, so that we also dispel the perception that anyone from the political divide, or through collusion by politicians, can shortchange Kenyans when it comes to dealing with post-election violence.

Madam Temporary Deputy Speaker, it is likely that if only local personnel are picked for the tribunal, some people will be left with a feeling, after being convicted, that this is all politically motivated. It is also possible that a victim, when an accused is acquitted, will think that political manoeuvring, and not the facts and law, has determined their case. As I said before, we are still suspicious of one another and it is, therefore, important that we seek help, as suggested and recommended by the Waki Report, that we have the help of our international friends.

This document also recommends that the tribunal relies on both local and international law. Why? International law applies to everyone, irrespective of whether their states are party to the Rome Statute. Therefore, if, as a nation, we fail to address crimes against humanity, issues of gross human rights violation and genocide, the international community is entitled, on their motion, through the International Criminal Court (ICC), to commence investigations, and to indict anyone found to have committed those offences.

As a nation, it is up to us to instil confidence, not only in our citizens but also in the international community, that we are capable of rising to the occasion and dealing with the sad events of December 2007 and January 2008. The way of doing it is by agreeing, on our own volition, to set up that tribunal. I am glad that steps are underway by Parliament collectively, working also with the Executive, to ensure that we have that tribunal.

Other matters recommended by that tribunal include police reforms. Part of the mandate of the tribunal was to inquire into the role of state security agencies, see whether they carried out their duties with due diligence and determine what other necessary reforms are required within our state security agencies. There are recommendations for fundamental changes and reforms within the police force and other state security agencies. These are recommendations worth considering.

As Kenyans, we ought to admit that all is not well within the state security agencies. We have heard the outcry of our people in respect to extra judicial killings. The law does not permit extermination. The law permits disabling of a violent offender in order to apprehend them. It also allows the security agencies to use necessary force when they are faced with dangerous criminals, who may endanger the lives of the citizens or the lives of the officers concerned. But events that are happening around us are clearly also indicating irregular use of firearms and, sometimes, unwarranted use of force.

We commend the many police officers who approach their duty with diligence, who respect their oath of office, who uphold the law and safeguard the best interests of the country. But we are also aware that among them are rogue officers, who are putting the police force and other state security agencies into disrepute. It is, therefore, important that we soberly approach the recommendations in the Waki Report so as to do what is best and in the interests of the country. But the message is very clear: Change must come and nobody will be spared. Nobody should expect to remain in their comfort zones, whether the police force, the National Assembly where we sit, the Executive or even the Judiciary. It is time for reforms, and all institutions must give way.

Madam Temporary Deputy Speaker, with your permission I could just highlight some of the changes that are proposed in the police force. First, is an independent Police Conduct Authority. In other words, it will be a completely independent body which will be able to investigate police conduct and provide civilian oversight. It means that it will be a board. Even though it will have police officers

representing the police, it will also have other members nominated from outside the police force to ensure that investigations relating to police officers or law enforcement agencies are conducted in an impartial manner and do not compromise the interests of the citizens.

Madam Temporary Deputy Speaker, it is also recommended that there be a comprehensive reform of the Kenya Police Service and Administration Police Services. These reforms should be conducted immediately. There are many other reforms recommended. Hon. Members can look at pages 481 to 484 and many other areas where it is noted in this Report.

Madam Temporary Deputy Speaker, all in all, and without taking too much time of the National Assembly, as the Report has been with Members since last year, and I believe it has been thoroughly scrutinized by them, I would urge Members

of this House to ensure we implement these recommendations by accepting this Report.

Finally, I would like to draw the attention of Members to an agreement signed by His Excellency the President and the Rt. Hon. Prime Minister, on 16th December, 2008, where the two Principals committed themselves to implementing the Waki Report and the formation a special tribunal. It will be recalled that the Coalition Government we have is as a result of the National Accord signed by both Principals on 28th February, 2008. In the same vein, these recommendations arise out of Agenda Item No.4 that the members of the public have been asking for. It would, therefore, be only befitting for the House, which supported the National Accord, to now support the two Principals who have already committed publicly to the implementation of this Report.

Madam Temporary Deputy Speaker, I want to note with appreciation that before we went on recess, Parliament passed the International Crimes Bill, which is one of the things that had been recommended by Justice Waki's Commission. I would also like to appreciate that the Witness Protection Act is already operational. But it is important that, as Government, we look into it to see that it is fully utilized for protection of witnesses in all cases. We also have the duty to ensure that the Freedom of Information Bill is enacted. The work of the Tribunal and all the other reform work cannot be successful where there is no free flow of information.

I would also like to draw Members' attention to the recommendations that all persons holding public office and public servants charged with criminal offences related to post-election violence, are required, under this Report, to be suspended from duty from the date that they are charged until the matter is finalised, and that upon conviction, any person charged with post-election violence offences of any nature, should be barred from holding any public office or contesting any electoral position.

Madam Temporary Deputy Speaker, this means that we have a very heavy legislative agenda and we can only begin to act on it once we adopt the recommendations of the Waki Report to enable us to not only form that tribunal or pass the legislation related to it, but also act on the very many other important matters that have been given recommendations in this Report.

With those very many words, I beg to move. I see hon. Orengo ready to second.

**The Minister for Lands** (Mr. Orengo): Thank you, Madam Temporary Deputy Speaker. I rise to support and second this Motion. I wish to congratulate the Waki Commission for a job well done. I cannot shy away from associating myself with Justice Waki. We were together at the university, when we were young men and women of ideals. That was not the end of the association. We were in the same law class. While at the university, the Students' Union used to have a fully-fledged government which was operational within the campus. I was President of that organization and Justice Waki was my Minister for Information and Communication. So, he has not let down that group of students who were with him at the university.

One thing that Justice Waki has done is that he had made us look at ourselves. In doing so, he interviewed almost everybody that needed to be interviewed, not for purposes of instituting any criminal charges, but give us a view of what happened during and after the elections in the year 2007.

Of all the commissions that have been established since Independence, I think the Waki

commission stands out as one and the only Commission that said what needed to be said at the right time. This has also enabled this Parliament to excel in many ways. This is because since the signing of the Accord, we have had several commissions. This one was called the baby Commission, but the Kriegler Commission did come up with a Report which, in many respects, this Parliament has fully implemented not only in terms of the Constitutional amendments that were required to be made, but also the enabling legislation to bring about the transit to fully-fledged constitutional reforms. Now, all indications are that the recommendations of Justice Waki and his team, will be implemented if not fully, but the main ones will be fully implemented.

Madam Temporary Deputy Speaker, this is a positive departure from the Commissions that we have had in the past, including the Ouko Commission, Goldenberg Commission, Akiwumi Commission and all those other commissions which, despite their reports being released, never really in any substantive way see the light of day in terms of action, implementation or legislation. The commissions that came out of the Accord have largely translated into fundamental legislation in this Tenth Parliament.

My learned friend, hon. Karua, has talked about police reforms. I cannot help but talk about the police. I have lived in a country without an executive police force. I lived for some time in Uganda in circumstances where there was not a police force, or anything that you can call a police force. In fact, the civil policing of the state was in the hands of the military. It is something that I would not want to live or experience in my life again. This is because the police play a very important and special function in a society where people believe in democracy, limited government and civil liberty. But the police force, if it is not working within a framework of any law or value, can overstep the mark.

I am saying this because during the one-party era, one of the institutions that was used by the Government to suppress the sense of the enjoyment of constitutional rights was the police. However, I must say that even during that period, it was found necessary to delink what was then called the Special Branch from the police.

Madam Temporary Deputy Speaker, many of you know what the Special Branch used to do to many people, including Members of Parliament. In fact, if one had to take stock of the conduct of the Special Branch during the one-party era and the people who suffered most, it is those in the academia and Members of Parliament or those in the political class.

It was found necessary to delink the Special Branch and bring a special legislation that made it an institution which could render services in a democratic society. I think we have largely seen improvement in the work of the intelligence community. There may be complaints here and there but I think they remain not to be seen. They work in the background but are doing the work they should do in a manner they should.

Madam Temporary Deputy Speaker, we need a major reform and review of the police force. I fully support the comments made by Ms. Karua in this regard. I, myself, have a permanent injury from the police when I was beaten up in Kisii. I was prosecuted but in the end, there was no case to answer.

However, I was really beaten up and made to sleep in a police cell with a lady with a little baby for more than two weeks. We are not saying that the police force need to be restructured because we do not need it. It is a vital institution which must be revitalised so that they may be responsive to a new constitutional order that is emerging where Government must be limited in its work and performance.

Madam Temporary Deputy Speaker, right now as we await these reforms, whereas we may have differences with what the teachers are doing out there, there is a way of stopping a riot or disabling persons. The things that we are seeing in police trying to stop some of the demonstrations by teachers is not right. I think that is not what we want to see in a democratic society. We may not agree with what they say, however, it is not right to beat them up and subject them to violence.

Madam Temporary Deputy Speaker, finally, on the tribunal, Kenya is a party to the Rome Statute. Now we have had the fortune and privilege to have one of our own very senior judges; a

judge of the Court of Appeal, being appointed to the International Criminal Court (ICC). We have to be judged by international standards in many respects. This is not only by virtue of that appointment but also by the fact that we are already a party to the Rome Statute. Indeed, even before the drafting of the statute for the special tribunal, we should have had in place an International Crimes Bill that recognises the ICC. This would enable international crimes to be tried and punished in Kenya. That legislation, however, has already been passed by this Parliament.

Madam Temporary Deputy Speaker, in the formation of the tribunal that has been proposed by Justice Waki, we must be alive to the international standards. The international criminal justice system may not be what we are used to. It has highest standards. However, if we have local legislation that meets the international standards, then there can be no intervention by any power including the ICC, in any of our affairs in the country especially in the criminal justice system whether it is in the application of crime or punishing those responsible for international crimes.

Finally, Madam Temporary Deputy Speaker, impunity has been part of the problem in this country. We have the Mboyas murdered. We have had the J.M. Kariukis murdered and many sons of Kenya. During the process of elections, many serious offences have been committed, including during the last elections. If we allow this impunity to continue, then Kenya will not come of age to be part and parcel of a growing and emerging new international order. This Report is a transit between what we have had in the many years before the last 50 years and the transition we are making to become part of a new international criminal justice system that has standards that are applicable in any part of the world.

I beg to second.

*(Question proposed)*

**Mr. Namwamba:** Thank you, Madam Temporary Deputy Speaker. I wish to support the Motion on the adoption of the Report of the Commission of Inquiry into the Post-Election Violence.

Madam Temporary Deputy Speaker, I want to start by saying that the post-election poldrons reflected the very worst of our nation. It reflected our intolerance to each other. It reflected an entrenched culture of impunity. It reflected our greed as a people. It manifested to a great measure how feeble and brittle the bonds that bind us together as a people are.

Madam Temporary Deputy Speaker, I speak myself as a living manifestation of a victim of some of the most vile violence during the election period. During my campaign, I experienced what it means to run politics in a culture devoid of responsibility or respect for the rule of law. Therefore, in so far as this Report seeks to provide us with a bridge to transit from this culture of impunity to an environment where we can live with each other appreciating our difference and distinctions, ready to compete with each other but live together with harmonious symphony like we have recently witnessed in the United States of America (USA) where the victor and the vanquished can ride together in the same limousine and dine together and share in the beauty of a smooth transition, I support it.

Madam Temporary Deputy Speaker, I am particularly heartened that we debate this Report after this House has commenced

the process of putting in place a tribunal that will put into effect the recommendations of this Report. As we proceed with that critically important national assignment, I want to say that ours has become or has been a country that thrives on rumour mill, speculation, innuendo and character assassination. We have become a nation that is more excited by half-truths and all sorts of rumours and not a country driven by desire to make our nation better. So, as we debate this Report and engage in the very important process of putting the tribunal in place, we must make a concerted effort to move this country to the level of a nation that can proudly hoist high institutions of governance and a nation that shall speak truth and not wallow in the miasma of lies.



Madam Temporary Deputy Speaker, this process, debate and even the tribunal must not be used as a platform to witch-hunt, but it must be a platform that provides us with an opportunity to deal with impunity firmly and decisively based on concrete information. Let this process provide the impetus for reform. As we use it as the impetus for reform, we must take the opportunity to reflect on the factors that instigated this whole mess. We must not forget that the post-election crisis was not an isolated event. It was the final dot in a long installation of impunity, inequality and resentment that had been mounting for 45 years.

So, as I support the adoption of this Report, I want to be confident and hope that we shall use this opportunity to regenerate the institutions of our governance like the Electoral Commission of Kenya (ECK). We shall use this opportunity to instal the rule of law where the rule of man has reigned supreme for 45 years and driven us to the problem we have encountered over the years.

Let this be an opportunity for Kenyans to rise to the challenge of being tolerant and especially Members of Parliament in this House should rise to that high pedestal of democracy guided by the principle that says: "I may not agree with what you say, but I shall defend unto death, your right to say it." We need to tolerate each other. It will be shameful for us to sit here and debate the pursuit of justice and fairness when the struggling teachers of our land are out there desperate and hopeless in a scenario that has pretty much been enacted by the injustices and inequalities that define our society.

Let us, therefore, also use this opportunity to respond to these inequalities and use the law in a humane manner when responding to the challenges of our time. A year ago, uniformed police officers pummelt citizens and killed them in cold blood in the midst of this whole process. It is unacceptable that today, 12 months down the line, police officers are using the same brutality against unarmed and harmless teachers merely because they are agitating in expression of their constitutional right. So, let our pursuit of justice be holistic. Let it be a continuum. Let it be reflected and manifested in all levels of our society. I am using this opportunity to urge the Government to stop the mistreatment, harassment and threats against the teachers and instead strike a deal with them so that our schools can go back to normalcy.

Madam Temporary Deputy Speaker, I want to urge this House that the debate of this Report, our discussions around the special tribunal is a grand opportunity to remake our nation. Let us learn to walk together remembering this African proverb: "If you want to go fast, then walk alone, but if you want go far, walk with others".

We have been in a hurry in this country to get Jehovah knows where, only to land in a ditch. May we use this opportunity to learn that unless we walk together as a people, we shall never overcome the challenges that have bedeviled this country for 45 years and we shall never enact a nation that we can be proud of like the American people expressed their pride on the 20th January, 2009, when they installed a new Government.

I support this Report and want to urge this House and the nation that may we use the process of cracking the puzzle of impunity - it is 45 years old - in a manner that reflects justice. Thousands of years ago, there reigned a sovereign in the land of Mesopotamia, the present day Middle East, by the name Hammurabi. This man enacted such a long-lasting principle that has defied history, for example, an eye for an eye or an ear for ear. I want to urge this country that as we pass off this process, let us not borrow the Hammurabian principle of an arm for an arm and an eye for an eye. Let us instead go for a process that will deliver justice, but at the same time have the capacity to unite this country and take us forward to the next level.

Madam Temporary Deputy Speaker, I beg to support.

**Mr. Muthama:** Thank you, Madam Temporary Deputy Speaker. I also stand to support this Motion. I would like to thank members of the Commission who worked tirelessly to produce this Report.

In 1992, 1997 and 2002, Kenyans lost their lives. In 2007, the situation was worse than the previous years. Nothing happened to those who killed Kenyans. They were left to go scot

free. They were not prosecuted neither were they warned. The problem in our country is not the Constitution. The Constitution alone will not see this country out of the problems we have encountered. The problem is ignorance of the law. People are stealing others property. There is cattle rustling going on and so on. We have completely failed to tell our people that there are laws in this country which need to be respected. We tend to baptise every criminal activity that takes place in this country.

Madam Temporary Deputy Speaker, unless we, leaders, come out strongly to tell our people that tribal issues and attachments will not take our country anywhere, we will not be dealing with the problem squarely. Leaders are the cause of these problems. We have made our people believe that they are Kambas, Kalenjins, Kikuyus and so on. However, when we come to this House, we want to discuss issues that touch on the whole Republic of Kenya. When we go back to our people, we always want to tell them that we belong to them.

Unless we get serious and behave like - forget about Americans - our neighbours here, the Tanzanians, we will not make any step forward. We must know that we belong to one country. To obey the law is a must for every citizen. We have broken our laws. We have been told that leaders are the ones who are breaking the laws of the land. A case test example is what is now happening with the food crisis in this country. Kenyans are bitter. They do not know where the Central Government that makes laws of the land and decides what happens is.

Madam Temporary Deputy Speaker, the other day, the Minister stood here and told Kenyans, through this microphone here, that this country buys maize from South Africa at Kshs2,500. He also said that it costs Kshs1,241 to transport that one bag of maize to Kenya. The total cost comes to Kshs3,741. That is breaking of the laws of the land, irrespective of what people are saying. We are not listening.

Madam Temporary Deputy Speaker, the other day, in the Rift Valley Province, a former Acting Finance Minister said that we have over 10 million bags of maize. Kenyans are expected to respect the Government that they elected. The Government has got the powers and mandate to give them food and protect their interests. They are sayings: "Kindly give us between Kshs2,200 and 2,500 per bag of maize!" But with total disregard, the Government is ready to spend that money without assisting Kenyans who placed it in power. Then, they are told using the other door: "It is time for you to obey the law."

Madam Temporary Deputy Speaker, our teachers have gone on strike. The laws of the land are being broken in totality. If you take the 15 million bags of maize that we are requiring between now and June, and import one bag at Kshs1,200, it would cost Kshs18 billion. That money is enough to pay our teachers who are asking for Kshs17 billion. That Kshs17 billion will come from the money that we will save if we do not import maize. With that money, we will be able to buy maize from our local people, instead of taking that money outside in form of hard currency, which is required very much in this country.

If that money is given to our farmers in Rift Valley Province, the Government will still have money which it could borrow through Treasury Bills to solve the financial crisis in this country. That is lack of respect for the laws of the land by the leaders themselves. Yet, when all these things are happening, our people are getting bitter and bitter on a daily basis, we are expected to tell them to obey the law. We are also expected to tell them that there are no tribal issues taking place in this country. It is extremely difficult. We must lead by example come what may.

So, for violence to be stopped, we need to be faithful to the people we are leading. We have to be straight-forward and faithful to them. We need to exercise the powers that have been given to us in the right way to demonstrate and show that, truly, we are leaders who are ready to assist the people to respect the law.

Madam Temporary Deputy Speaker, today, I went to Kenya Broadcasting Corporation

(KBC) to donate some money to some children who were burnt at the time of that violence. They are six children who require about Kshs30 million to take them to a hospital in America for their bodies to be reconstructed. The children did not come. They were represented by their parents. I looked at the parents and saw those children! Come what may, we should not be talking about violence in this country after 45 years of Independence with good learning and education. We should now be talking about one united country and one people. It is we leaders---

Madam Temporary Deputy Speaker, I want my colleagues here to be serious. They should go out there and tell our people that in the coming election of 2012, we do not want our people to be divided on tribal issues. We must do away with tribal boundaries. We must be serious and put our people together. Those who voted for leaders here are the ones who suffered during the violence. None of those who suffered are in this House. They are outside there and they are still suffering. Some of them are still in the cold. This document alone will not help us. We need to be more serious.

With those few remarks, I beg to support.

**Mrs. Shabesh:** Madam Temporary Deputy Speaker, I stand to support this Report. I would like to start by speaking about the commissions, which have been taken for granted in this country for a very long time. There was a great risk of us taking this report also for granted. But I thank God that there are Kenyans who still hold us accountable and who could embarrass us enough to admit that, even as politicians, we cannot stop this tide of truth that has been told. Commissions use a lot of taxpayers' money.

It is unfortunate that many commissions bring out reports that are never implemented or even debated. For me, this is not only a success following the post-election violence, but a success in terms of where we want to go as the Tenth Parliament on the issue of commissions and reports that are produced. For me, it is unfair that we bring into commissions reputable people such as Justice Waki and allow them to go through three to four months of serious work, including serious legal minds behind such commission and then, when the reports are out, we want to trash them. It is unfortunate because we do

not only trash the commissions, but we also trash the reputations of people who are held in high esteem in this country. It is about time we recognised that commissions do not only present reports of what happened, but also represent how we hold in Kenya--- In what esteem do we hold our academia, legal minds and experts in this country?

Madam Temporary Deputy Speaker, for me, this is a first because it allows us to have something that we can use as a basis to say: "Any commission that is ever commissioned in this country, the report must be tabled in Parliament, discussed and implemented, including difficult things like setting up the tribunal." For me, the Waki Report highlighted many issues. But what touched me as a woman Member of Parliament and a mother was the issue of sexual violence that happened during that time. A record number of 1,300 children do not know where their parents are up to today. Yet, all we want to talk about is which politician has been named.

I think as House, sometimes, we should be embarrassed because we speak like we are not parents. We speak as if we are not mothers or fathers of children in this country. How can you stand and defend individuals before you remember that there are children who will never see their parents again, not knowing whether they were killed or lost? To me, that is a tragedy.

That tells us that we are losing our moral standing in the society as Members who represent the people. For me, this Report clearly states the kind of sexual violence perpetuated on women and young children by police officers. The police officers were identified, and it is on record that they were terrorizing women at night in the Internally Displaced Persons' (IDP) camps in the name of going to save them. It is more sad to note that even humanitarian agencies were taking advantage of women. They had to give sexual favours in exchange for food to be able to feed their families within the IDP camps. To me, those are sad stories that we should never want repeated in this country. If that

happened in 1992, 1997, 2002 and then 2007, we must bite the bullet, even if it is painful. We must bite the bullet, for the future of this country, and if we want to be considered as leaders in this country after this Report. Kenyans are watching us.

Madam Temporary Deputy Speaker, I am speaking as a member of the Kenya Women Parliamentarians Association, to which you are a member. Our resolve is one: to reclaim this country for our children. For us, it does not matter what political party we belong to, because we have seen that political parties are adding no value and substance to the issue of discrimination against women. If anything, these political parties are perpetuating discrimination. We are saying that we are going to reclaim our country, irrespective of which tribe, political party and region we come from.

As I conclude, I want to say that reconciliation and national cohesion are key to any implementation of this Report. The issue of impunity is one that we cannot condone, but it must go hand in hand with reconciliation and national cohesion. For us, that is key. Yes, an individual could have done something that he must pay for; that is important, but to me it is more important to save lives. One or two lives of children are more important than an individual.

So, we must balance. The only way we can balance is to realise that we were brought to this House for one reason only, to represent the views of Kenyans. Kenyans are saying that they are hungry, poor, frustrated, have no hope and, therefore, they just want peace and development. If this House cannot deliver these, I believe, with no fear of contradiction, that they will look for them elsewhere. Unfortunately, we have no idea where that elsewhere will be, but certainly it will not be within our class. I hope that, that elsewhere will not be within groupings that can bring violence, or cults that can cheat young people that they will find solace elsewhere. It is about time that we regrouped as Members of Parliament, went back into our inner souls and realised that we are mothers, fathers, holders and keepers of this nation. Let us take our responsibility seriously.

With those few remarks, I support.

**The Assistant Minister, Ministry of State for Immigration and Registration of Persons** (Mr. Baya): Madam Temporary Deputy Speaker, thank you for giving me this opportunity to contribute to this Motion. In 1992 and 1997, I was one of those involved in the quelling of violence and resettling of the displaced victims of clashes. I wish to say it here, that it is not a very pleasant experience. The differences between the 1992 and 1997 clashes from the 2007 clashes are, first, in 1992 and 1997 the clashes were just before elections, but in 2007 they were after elections. Secondly, the 1992 and 1997 clashes were milder.

In 2007 we experienced more violence and more people died. Even though at that time those of us who were in the field tried our best to make sure that people went back to their homes and shambas, there were reports that were made by commissions. Those reports have been gathering dust instead of producing results. This time, there will be a difference. This time, as a country, we are more serious than before.

I do support the report, although, there is one section that I feel should be looked at again. That is the involvement of international personnel and of both local and international law. I think that will go a long way in passing the message to those who were involved and those who might be having similar intentions in the future that they will not be left to go scot-free. It would have been very difficult if the tribunal was to be handled by Kenyans alone. The fear creeping in of things like ethnicity would have come in. We feel that having international personnel involved, will give us better results.

Madam Temporary Deputy Speaker, one of the specific recommendations is the proposed merger of the Administration police and the regular police. I am not very comfortable with that. I have been a beneficiary, because I have worked very closely with both forces and came to realise, when I was the chairman of the security committees from the divisional to provincial levels, that it is easy to set up an Administration Police camp should there be trouble in any spot of this country than it is to set

up a police station. It will require the Commissioner of Police to gazette a particular place before you can send the regular police personnel there.

Secondly, the way the police officers from the two forces have been trained is totally different. There is a little bit of resemblance. The regular police are very comfortable working in urban centres. They deal with criminals, including those who may happen to be late to get to their homes. The Administration Police are trained to combat situations like cattle rustling and other trouble spots, where real force is required. Merging the two forces will mean killing the Provincial Administration in this country. As we know, the Provincial Administration has been doing a good job. A few of us might have done it the wrong way, but generally, we still require it.

With those few remarks, I do support.

**Mr. Wamalwa:** Thank you, Madam Temporary Deputy Speaker. I will start by congratulating the hon. Phillip Waki. As hon. Orenge said earlier, he is a jurist of impeccable record and judge and lawyer for whom we have the greatest respect. It was not an easy task, going by the challenges that Justice Waki and his committee faced. Indeed, it took not just the dedication to their task in execution of their terms of reference, but also courage to actually come up with the kind of recommendations that they did.

Madam Temporary Deputy Speaker, there was one issue that the good judge said in the Report as they grappled with the very tricky question as to whether to name or not. Indeed, you will see that it was not an easy thing at all but in their wisdom the manner in which they prepared this report and submitted it, they must be commended.

We must also commend very highly the Serena team that included the Minister for Justice, National Cohesion and Constitutional Affairs who has just moved this Motion and who is in the House, Prof. Ongeru and Dr. Sally Kosgei for having worked through Christmas. Not only were we home for Christmas but there were Kenyans here who were working to ensure that the recommendations of this Report are actually met.

Madam Temporary Deputy Speaker, it was very encouraging this morning to look at the kind of draft that they have already prepared and which we discussed in our committee about the implementation of this Report. It is our hope that by the end of this week, hopefully this statute setting up the tribunal will come to this House and hopefully after we thrash the issues through tomorrow's *Kamukunji*, and we are able to set up this tribunal within the time line specified in this Report, this will be quite an achievement. We hope that as members of this House, we will rise to the occasion in the manner that the legal committee, the Serena team and Justice Waki has.

Madam Temporary Deputy Speaker, the English have a saying that: "A stitch in time saves nine". Similarly, the Waswahili have a saying that: "*Usipoziba ufa utajenga ukuta*". Looking at the history of this nation, what happened in 1992, 1997 and last year, you will realise that whatever happened at the advent of multiparty democracy in this country gave meaning to the words of an old professor of politics, our former President Daniel arap Moi who said that: "*Siasa mbaya, maisha mbaya*". I think it came down to that.

The violence we witnessed across this country was not the first time it occurred. Every election year since 1992, we have had the recurrence of this very ugly violence that has turned communities against each other and that has targeted certain communities. It indeed, poses a great challenge to us as a House and as the present leadership of this country that we need to do something. It will not just end with what has been recommended here, but it will take the will of all of us to decide to live together as Kenyans.

Madam Temporary Deputy Speaker, it takes a word or two from some of us in this House to indeed influence many out there and set them against each other. We must address the issue of hate language and hate speech. It is an issue that the last Parliament looked at. The legislation did not go through but we will have an opportunity again in the course of the life of this House to relook at it.

This is because if one leader says that this particular community are like a spot that is not required here and they are called *madoadoa*, one word alone, would turn neighbours against each other and yet they have lived together for many years. They have intermarried and borne children together but because of the incitement, they have turned against each other.

Madam Temporary Deputy Speaker, this country has never sunk this low. Indeed, looking at 1992 and 1997, it never went to the extent that it did in 2007. We saw this nation at its lowest ebb.

Indeed, if what we heard happened in Kiambaa at that church and the innocent women and children who were killed and burnt, this country cannot sink lower than that. If what happened at a place called Kabati in Naivasha where 27 members of one family were burnt and wiped out because they belonged to a certain community that was not wanted in that area, this nation cannot sink that low.

In my own constituency, I came across the ugly face of violence. A young mother could not run because when the raiders came she was eight months pregnant. She was murdered and the foetus in her womb never saw the light of day. The little boy in her hand who was only two years went with her. We went to a very sad funeral where there was one coffin and two little ones. These were innocent Kenyans and who did not even vote or know about the tallying at the Kenyatta International Conference Centre (KICC). It is something that is beyond comprehension and which, as leaders, we must look at and address and ensure that it never happens again.

Madam Temporary Deputy Speaker, Sir, I was in the United States of America (USA) in Washington DC for the inauguration of a son of a son of Kenya, Barack Obama. What I saw there was really amazing because as the Americans sang very proudly their national anthem and they sang of the land of the free and the home of the brave, after their land they wondered about a place called Kenya where this brilliant, young visionary leader had come from. Those we met were asking us how our country is like now because they saw what happened on Cable News Network (CNN). They think that this country is still in the state of Somalia and the Democratic Republic of Congo (DRC) and yet they want to come and invest. The travel advisories that are there have told them it is not safe. Without peace we cannot invest. No investor will come to invest in this country.

However, if we can take a new direction to ensure that what happened never happens again and that the culture of impunity is not allowed to take root in this country, we can build a great country. We can turn this country around and all those who think of the beauty of our beaches and our flora and fauna will be ready to come back to this country; the country of the father of Barack Obama. There are so many who would like to come.

Madam Temporary Deputy Speaker, Justice Waki has addressed at length how we responded to this violence and indeed we must commend the police that worked under very difficult circumstances. They were overstretched beyond capacity but there were also cases where there were excesses like the use of violence and force. I was amongst the team that visited Kondele in Kisumu where a young man, Olago, was shot while running away from a police officer who shot and kicked him. The behaviour of this officer was truly unacceptable and yet there were many such cases, some that were never captured on camera about our police force and errant officers who violated the police force standing orders, the Constitution of this country and human rights. How do we deal with this?

Indeed, there have been recommendations that Justice Waki has made but we need to go beyond this. We should overhaul our police force to make it a service to Kenyans and not a menace. It is an area that we need to focus on in implementing this Report.

Madam Temporary Deputy Speaker, we also have the problem that Justice Waki points out squarely, that what fuelled the violence was the huge number of unemployed youth in this country and he estimated about two million unemployed youth roaming this country without purpose or any engagement and they are fodder for the warlords. They were the ones that were used to burn houses for as little as Kshs1,000 or Kshs500.

We need to do something if we are to change the future of this country by, first of all, addressing the plight of the youth. We need to give hope to the youth of this country. We must empower them. So far, we have had the practice of tokenism; giving them a little something through the Youth Enterprise Development Fund which has not had major impact. This will not change their situation. We need to squarely address this and see how we can turn this huge resource into a great asset. Right now, it is a menace to this country. It is something that as we think about implementation, we must address and see how we can give this country a brighter tomorrow.

With those few remarks, I beg to support.

**The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama):** Thank you, Madam Temporary Deputy Speaker, for granting me the opportunity to contribute to this good Motion. I wish to thank the Ministers for bringing this Motion at this particular time. I also wish to thank the Serena Team for a job well done. I would also like to thank Mr. Waki and his group.

I stand here as one of the victims of violence. In January, when I was travelling to this town after the election, I met a few young men in Nakuru who started throwing stones at my car. Quite a number of people were injured, including my driver. So, politicians are also not exempted from this menace.

Madam Temporary Deputy Speaker, my constituency; Baringo East, was one of the safest. I want to thank my people for hosting quite a number of Internally Displaced Persons (IDPs) until the situation got back to normal.

First, we need to address the culture of impunity. According to the Oxford Dictionary, impunity is defined as exemption from penalty or punishment. Some Kenyans still believe that they can get away with even murder. We need to address the culture of impunity as a matter of priority. The culture of "do nothing" that is so prevalent in this country must stop. We all know that we had violence in 1992, 1997 and the worst violence in 2007 especially at the beginning of 2008. This must end because if we do not address this issue this time round, then the year 2012 might be a disaster.

I do not want to recommend that some people should be witch-hunted. The people who were involved must be dealt with. It should not be handled the way the Goldenberg issue was handled whereby some people pretended that they got saved. When they got saved, they thought they would get away with justice. Even if these people who were involved in this issue got saved, we will deal with them and God will deal with them in his own special way.

Madam Temporary Deputy Speaker, the blood of the young children in Kiambaa and Naivasha should not go in vain. Some people must face justice. We want justice, not just by word of mouth, but we want people to face it in a court of law. The Report has recommended quite a number of issues.

As my former boss, the Member of Ganze said, I think the issue of saying that the police force and the Administration Police force should be merged was a very controversial issue in Bomas for those of us who were there. We never got a new Constitution. It was defeated. There was a general consensus that time, and I remember presenting my views together with Mr. Y. Haji that the Administration Police is here to stay. These are the people who are taking care of Kenyans in the rural areas.

Madam Temporary Deputy Speaker, the Kenya police force is a formation that is so inflexible in terms of deployment. As we talk right now, there is an OCPD in my area who is in charge of three districts because the police force is quite inflexible.

They have their own rules. The OCS and the administration police commanders are in charge of Baringo North and East Pokot districts. So, it is that inflexible. The issue of merging them will not help this country.

Madam Temporary Deputy Speaker, the situation of the IDPs is horrifying and horrendous. People live in very squalid and sorry conditions. As we try to implement the recommendations of the

Waki Report, we need to have those people out of those camps. I am happy that there is an initiative from quite a number of hon. Members especially from Rift Valley, Central Province and Nairobi area to assist the Government to resettle those people because we know the conditions they live in.

I will also touch a bit on the issue of intelligence. I do not think our brothers and sisters in the intelligence unit did much in terms of giving proactive intelligence so that the Government could be in a position to stem this problem before it escalated. I am not sure whether they did their part. In future, we want proactive intelligence so that they can deploy our men in those very hot spots like Molo and others.

We still have reports like the Akiwumi Report and the Report by the Parliamentary Select Committee headed by Mr. Kiliku. I do not think any of these reports were implemented. This time round, we want change. We want Kenyans to believe in what we are saying. We want the confidence of our people. We want Kenyans to trust politicians. The only way we can be trusted is for us to restore peace, justice and democracy in this country. I wish to support the report and stop there for now. The adoption of this report should be speeded up so that its recommendations can be implemented as a matter of priority.

I beg to support.

**Mr. Imanyara:** Thank you, Madam Temporary Deputy Speaker, for giving me an opportunity to support this Motion. I also thank the Chair for re-arranging the Order Paper so that we can debate this Motion at this moment as we prepare to debate the law on the statute.

One must thank Commissioner Waki and the commissioners with whom he worked because they had a very short period within which to perform their work. The expectations were high and the pressures were great. Many people were cynical. They did not believe that this Commission would come up with plausible recommendations.

Madam Temporary Deputy Speaker, contrary to this expectation, the Commissioners have come to be the real sung - and not unsung this time round - heroes of our country. Within the time-frame they were given, they were able to expose the shortcomings and the problems, in a very impartial and objective way, and make recommendations that are unique in many ways.

I do not believe that we have had a Commission like this one, which has set time-frames within which certain things needed to be done. Had that not been done, this Report would have been shelved like many others. No action would have been taken. The culture of impunity would have continued.

So, for the first time, we have a real opportunity to deal with the culture of impunity in a way that addresses the problem fully. This is not an opportunity we can afford to lose. We should not allow the default clause of sending the recommendations to the Hague to take place. We, as Kenyans, 40 years after Independence, need to stand tall in this era and say that we can actually face the challenges that face our nation.

Madam Temporary Deputy Speaker, Sir, one hopes that this is the last time that we will see a situation in this country where a person can stand and commit acts of murder and crimes against humanity, knowing that no one can ask them, because they have control, or they have fanatical following of certain groups or sections of people.

This country shall be ruled by the rule of law, or by a Constitution that does not discriminate, or by application of legal processes that do not discriminate or differentiate. Such that whether you are the President of this Republic or the lowest person in the street, if you have committed a criminal offence, you face the full force of the law without telling Kenyans that you are protected by your community or your tribe.

We must pass this Motion, so that the Report is adopted to pave the way for the enactment of the statute. That is our real challenge: Whether we can enact a statute that will truly facilitate the realisation of the recommendations made in the Report. There are fears out there, that there are people in this country whose mission is to prevent the realisation of the recommendations of the Report by



ensuring that when the Bill seeking to create the statute is brought to this House it can be amended, or brought in such a way that it does not meet the full expectations of the people of Kenya.

Madam Temporary Deputy Speaker, Sir, given what I saw and heard this morning at the *Kamukunji* that was held to prepare for the debate on the statute, I fear that unless we rise above our selfish tribal interests, we will lose an opportunity of enacting a statute that complies with the recommendations of the Waki Commission and thereby fail to deal with the culture of impunity that has been deeply engraved in our culture, and which has been slowly destroying our country.

So, as we proceed to enact the statute that will implement the recommendations of the Waki Report, let us remember that there were many people who were killed and hundreds of thousands of people displaced. The only tribute we can pay to the people who lost their lives, and those who have been displaced, is to pass the statute in the manner it has been suggested in the Waki Report, so that the culture of impunity can once and for all be laid to rest.

Mr. Temporary Deputy Speaker, Sir, that is the only way we can honour those many women and those children who will never live to enjoy being Kenyan citizens. We must tell them that Kenyans learned one lesson, like the Americans did after their war of Independence; that out of all revolutions come some good things.

Let us pay tribute to those who died, to those who are displaced, and to those who are living in Internally Displaced Persons' (IDP) camps, by not only passing this Motion to adopt the recommendations of the Waki Report, but to also enact a statute that truly and effectively administers the recommendations of the Waki Report in a way that deals with the culture of impunity, once and for all.

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

**Mr. Njuguna:** Thank you, Madam Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important debate.

Firstly, I wish to remember the people who came to assist us in this unprecedented crisis. I wish to particularly remember Dr. Kofi Annan, the President of Uganda, Mr. Yoweri Museveni, President Jakaya Kikwete of Tanzania, President John Kufuor of Ghana, and others. I also wish to register my appreciation for the two principals, who agreed to come together to look into the issue of healing this nation.

Madam Temporary Deputy Speaker, I wish to mention in particular the role played by the Prime Minister, and that played by the President of this nation, Mr. Mwai Kibaki. We should also not underate the important role played by the Serena Team. As we continue to look into this document, we need to address the issue of violence very critically. I recall that in the period between the years 1952-1958, the people of this nation fought the colonial regime, which was a just and right cause. Why did our people, in 2007, turn against one another?

This is an issue we need to address, so that the future and peace of this nation will be guaranteed. This violence seriously affected our people in the whole country. Unnecessary sufferings were experienced on this land. Some of the sufferings and atrocities that were noted in this nation would have been prevented if the security organs of our Government were awake and active. Officers in the Police Kenya were partial. They were not ready to respond to those areas which were potential with threat. Therefore, the issue of the Police Force must be addressed critically. The Police Force must face reforms to correspond with the present times. Even today, if you look at the way the Police Force is performing, you will note that it is leaving a lot of grey areas that need to be addressed. The Kenyan people do not have trust and confidence in the manner in which the police respond to the needs of citizens.

We note from this Report that the National Security Intelligence Service (NSIS) made very strong recommendations, giving insights on what was likely to happen. Why were the recommendations of the NSIS not followed? Why was the Executive not responsive to the

recommendations of the NSIS? The NSIS is a very important body in this nation. It is charged with a very heavy responsibility. The Executive must be able to listen to its recommendations and ensure their implementation. If the reports of the NSIS had been acted upon, some of the ugly scenes that we saw would have been avoided.

Madam Temporary Deputy Speaker, we also saw that Kenyans were very furious as a result of being let down by their Government. Consequently, unnecessary killings took place. We also saw people maiming others and houses set ablaze. This was an experience which we had not seen in this nation previously. Houses were burnt down. Even churches were not spared. We have not seen, in other countries, situations where sacred places were destroyed. That is a development that we should not allow in future in this country! Crops in the farms and in the granaries were also destroyed. That has caused the present predicament that we find ourselves in. We should not allow a thing of that kind to happen in this country again! Primary and secondary schools were also destroyed and, consequently, that has forced our pupils and students to lack learning facilities!

It is also important to note that the issue of patriotism has been lacking. Patriotism is what we should all pray for. We should all fight for patriotism, so that we can give our people proper and credible leadership. That must be seen from the way we, ourselves, behave. The political leadership in our country should change the direction.

Madam Temporary Deputy Speaker, I also wish to register my appreciation for the sacrifice that was made by hon. Members of this House by way of contributing a sum of Kshs50,000 each. That really went a long way to indicate our concern to those who were affected.

Madam Temporary Deputy Speaker, the issue of Internally Displaced Persons (IDPs) is also causing tension among the families and also on the land. As we stand here, the IDPs are still vulnerable. They are still living on the roadsides. There are others who are living with their families in tents. There are others who have even lost the desire to live! It is important, therefore, that those who planned, executed and really supervised the whole violence must be found and made to go through the process that we intend to create. Justice and fairness must be exercised in the whole process.

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

**Mr. Affey:** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to also contribute to this important Motion. I rise to support the adoption of this Report. This Report, if used properly and in the manner designed by Justice Waki and the Committee that did it, has the potential to recreate this country.

Madam Temporary Deputy Speaker, if we do not implement this Report to the letter; if we do not take advantage of the spirit provided in this Report, I have a fear that we might lose this country. We almost lost this country and that is why, today, almost every institution that we create has a foreign component. In fact, I think we have, to an extent, lost our sovereignty! The Commission had a foreign component. This Tribunal has a foreign component. Therefore, that tells us that we should be extremely careful on how we continue to manage this country.

My only worry is the lack of political leadership that is required to drive this process to its logical conclusion, particularly when this Report might contain names of individuals in high places and businessmen and women. If there is no strong political leadership in this country, it might be very difficult to realise the essence of implementing this Report.

Therefore, I want to plead with the President, as the leader of this country - because Kenyans voted for him to lead this country - and together with the Prime Minister now that we have a Coalition Government, to provide the necessary political leadership required in order to ensure that this Report is implemented to the letter. If that is not done then, perhaps, Kenyans must find a way of communicating with the President of the United States of America to also provide the necessary checks, balances and the necessary pressure that will be required to push the political class to implement this Report.

What happened in this country cannot just be assumed to be an event; it is a permanent scar on the conscience of the Kenyan people. It is a permanent damage. It will be very difficult to explain how we lost 1,200 people in a short period of two months! Even in Somalia, where I had an opportunity to work as an Ambassador, in two months, they never lost the number of people we lost in this country! In two months, perhaps, they lost a few hundreds. But in just two months in Kenya, we lost over 1,000 people and we destroyed property worth billions of shillings. If we do not address the root causes of those problems and how to achieve a harmonious Kenyan society, it might be difficult to resolve this matter.

Therefore, Madam Temporary Deputy Speaker, I do not want to take too much time on this matter because my colleagues had contributed to this matter in a great deal. All I want to do is to support and to seek the support of the Minister to bring this Bill, hopefully, before the end of the week so that we can enact it. Then, we can prepare the roadmap to punish those of us who were responsible for committing the kind of crimes that were committed.

With those few remarks, I beg to support.

**Mr. Chepkitony:** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to contribute towards the adoption of this Report. This is a very important Report. What caused the post election violence, I think, needs to be addressed fully and the truth must be known. It should not just be a blame-game. I think we need to address it well. We must know the reasons why there was violence. Why should we have violence after elections? What were the reasons? Violence leads to crime; violence leads to fighting; violence leads to burning. All that was witnessed during the post-election violence.

On that day, I travelled from my own town of Iten to Eldoret after the swearing-in ceremony of the President. Before I reached Eldoret, there was a group of youths who had barricaded the road with stones. I was stopped! I was surprised! I was shocked! What was happening? Then, I asked: "What was wrong?" They were saying that the country had gone haywire. "Why?" I asked them. They said that it is because the elections were rigged. They wanted to remove me from the car and I told them: "No, I was not responsible." After talking to them, they allowed me to proceed. But I could not go back home because the roads were barricaded.

The way I look at it, I think that it was spontaneous. It was spontaneous and I do not think anybody planned it. That is because even the security and intelligence forces should have known if there was any plan. They should have been able to counter it. When it happened, the reaction of the police and other security apparatus was very slow. They never took any action! It is because they were not prepared. Nobody expected it. The Government did not expect it. The security agents did not expect it. Nobody expected it! A majority of the people did not expect it!

That is a lesson because we should have been able to detect what was to happen in case the elections were stolen, rigged or if a dispute arose. So, I think the planners or those who were in control were partly to blame for what happened. That is because a lot could have been saved. When the violence started, quick action could have been taken before it spread. That could have prevented a lot of property from being destroyed. It could have prevented lives being lost and things could have come under control within a very short time. The main dispute was the results of the election and if they could not be verified by Waki in his Report, then something must have happened. If they were rigged, then those who did so must have planned to do that. So, if there was any rigging, it was planned. Just before the elections, I saw leaflets being circulated. Some were saying that power would not be handed over; I read them but I ignored them. I did not take them seriously. The leaflets were some of the things that caused tension; when people read them, there was tension. Also the speeches made during the campaigns brought bad blood among communities.

**Mr. Ngugi:** On a point of order, Madam Temporary Deputy Speaker. This is a very important Motion and you have seen that everybody is supporting it. In view of the time now, I suggest that you call upon the Mover of the Motion to reply. Everybody is in support of it.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, I think we are all in support of it. May I allow Mr. Chepkitony to wind up? He was almost winding up.

**Mr. Chepkitony:** Thank you, Madam Temporary Deputy Speaker, for allowing me time to complete my contribution.

The actions of the police left a lot to be desired. When they went into action, they did not do it in the proper way; they became participants.

Madam Temporary Deputy Speaker, the last thing I want to talk about is the people who were mentioned as having planned, or participated in, the violence. Those names need to be investigated thoroughly, and such people given a chance to defend themselves.

Many people have spoken about impunity. This is something we need to be serious about and should stop it. We should not just talk about it. We talk about and yet it happens just like corruption. Those involved in corruption are doing so with impunity. Those causing election violence are doing it with impunity. The cause of everything is impunity; so, we must be serious and stop impunity, which we talk about all the time. It has become a very familiar thing, so that nobody is thinking of taking action.

With those few remarks, I beg to support the adoption of the Report.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, Mr. Ngugi had moved that we ask the Mover to respond. I will put the Question.

*(The Temporary Deputy Speaker (Prof. Kamar) put the Question while seated)*

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Madam Temporary Deputy Speaker, I would like to donate one minute and a half to Mr. Mwathi.

**The Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Madam Temporary Deputy Speaker. Just as a matter of procedure, you put the Question while seated, which is not the normal procedure in this House.

**An hon. Member:** It is okay!

**The Minister for Foreign Affairs** (Mr. Wetangula): Madam Temporary Deputy Speaker, I am just bringing it to the attention of the Chair.

**Mr. Mwathi:** Madam Temporary Deputy Speaker, I will take exactly one minute and a half or two minutes, but it would have been a big disadvantage to me not to stand and support that we adopt this Report, because it is very well known that my constituency was home to very many people, who landed there because of what happened after the elections. We know that in 1992, 1997, 2002 and during the elections of 2007 clashes-related activities affected our people in the whole Republic. It is very well known that there is some connection between elections and the violence that occurred during those years. For us to be able to overcome this once and for all, I think the very best thing we can do is to implement the recommendations of the Commission of Inquiry into Post-election Violence.

So, I wholeheartedly support the idea that we adopt this Report and subsequently establish the framework, avenues and institutions that are required so that we can achieve the objectives of that Report.

With those few remarks, I beg to support.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Madam Temporary Deputy Speaker, may I thank all the Members for wholeheartedly supporting the

implementation of the Report and agreeing that impunity relates not only to violent crimes, but also to other crimes including economic crimes like corruption. Impunity impacts on everything including security. When offenders are not punished, they repeatedly regroup and commit worse atrocities than they committed before.

Parliament has a duty to end impunity by passing the Special Tribunal relating to the election violence and also moving to pass other legislation that will help end impunity in all areas. We must bring accountability to every individual who works for the public to ensure they perform their duties in an upright manner. Whether it is in the security forces, Parliament where we are, or in any other institution, we must end impunity, and this is a good beginning. We know that election violence has become cyclic in this country since 1992. We need to end it and pave way for a country where we respect the rights of each other.

Madam Temporary Deputy Speaker, once again, I wish to thank the House and say that the matter now of passing the special legislation for the tribunal, is in their hands and also the matter of passing other appropriate legislation to end impunity all round in this country.

With those few words, I beg to move.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, before we interrupt the business of the House, earlier this afternoon we skipped some Orders. One of them was the Committee of the whole House on the Proceeds of Crime and Anti-money Laundering Bill. For the record, I would like to mention that this Bill is actually deferred and not skipped. This is because there was discussion between the Chair and Minister for Finance and it was agreed that it be deferred.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow Wednesday, 28th January, 2009, at 9.00 a.m.

The House rose at 6.30 p.m.