

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 22nd October, 2008

The House met at 9.00 a.m.

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

PRAYERS

NOTICE OF MOTION

INTRODUCTION OF NATIONAL CANCER CONTROL AND PREVENTION BILL

Mr. Washiali: Madam Temporary Deputy Speaker, I beg to give notice of the following Motion:-

THAT, aware that cancer has become a significant killer disease in Kenya; further aware that it is a very painful disease with no known cure; recognising that it has not been given priority by successive Governments in Kenya; cognizant of the fact that some forms of cancer can be prevented and other types cured if diagnosed early; this House grants leave to introduce a Bill for an Act of Parliament entitled The National Cancer Control and Prevention Bill, 2008, to tackle prevention, early detection, diagnosis, treatment, palliative care to cancer patients with the ultimate goal of reducing the incidence and prevalence of all preventable forms of cancer and ensuring that all patients diagnosed with any form of cancer have access to medical care, and for related matters.

ORAL ANSWERS TO QUESTIONS

Question No.149

APPOINTMENT OF COUNCILLORS TO LOCAL AUTHORITIES TENDER COMMITTEES

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

- whether he could explain why only the chief officers in the Local Authorities Act (i.e. the Clerk and the Treasurer), who invariably are not from the respective regions, are the signatories to the council funds;
- what plans the Government has to ensure that councillors, who are the people's representatives, are appointed to the tender committees of local authorities; and,
- what steps he will take to ensure that contracts under devolved funds, particularly the Local Authorities Transfer Fund

(LATF), are utilised to reduce poverty in the local areas by awarding contracts to the locals.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Deputy Prime Minister and Minister for Local Government!

An hon. Member: Absent!

The Temporary Deputy Speaker (Prof. Kamar): Is there anyone from the Ministry?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Madam Temporary Deputy Speaker, we have nobody from that Ministry right now. If you give us time, he will come in good time.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Kiunjuri, are you representing the Minister or the Leader of Government Business?

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Madam Temporary Deputy Speaker, as you have seen, a few minutes ago, I was the senior-most Member of the Government seated here. Now that Mrs. Mugo has arrived, I will hand over to her, but I was representing the Leader of Government Business.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Linturi, can we defer your Question?

Mr. Linturi: Madam Temporary Deputy Speaker, I do not think we have any option, but to ask for your indulgence until the Deputy Prime Minister and Minister for Local Government comes. Having said that, I think the culture of laxity among Ministers and Assistant Ministers should end. Kenyans, out there, are waiting to be addressed on the very serious issues that touch on them. This Question has been lying in the Office of the Prime Minister for the last four months. I have been waiting for an answer. All the councillors in this country want to know why they are never involved in the procurement of goods and services. So, I beg that we defer the Question to this afternoon, so that the Minister can answer it.

The Temporary Deputy Speaker (Prof. Kamar): Very well. Let us move on to the next Question. The Leader of Government Business has just walked in. Maybe, he will be able to give us an explanation as to why Ministers are not here to answer Questions.

Question No.172

SCIENCE LABORATORY FOR NDUNGULU
SECONDARY SCHOOL

The Temporary Deputy Speaker (Prof. Kamar): Is Ms. Chepchumba not here? The Question is dropped!

(Question dropped)

Next Question, Mr. Nemesyus Warugongo!

Question No.222

HEARING OF APPEAL BY
MR. S. KARANJA

Mr. Warugongo asked the Minister of State for Public Service:-

(a) whether he is aware that the appeal to the Public Service Commission by

Assistant Chief for Kimahuru Sublocation, Mr. Simon Karanja, who was dismissed from the service, has not yet been heard; and,

(b) when the appeal will be heard.

The Temporary Deputy Speaker (Prof. Kamar): Is the Minister of State for Public Service not here?

An hon. Member: Absent!

The Temporary Deputy Speaker (Prof. Kamar): Mr. Leader of Government

The Temporary Deputy Speaker]

Business, that is the second Minister who is not in the House today!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Madam Temporary Deputy Speaker, the information I have is that this Question has been re-directed to the Ministry of State for Provincial Administration and Internal Security. So, perhaps, the Chair might feel persuaded to defer the Question to allow the Minister to deal with it.

The Temporary Deputy Speaker (Prof. Kamar): If that is so, when do you think the Question will be answered?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Madam Temporary Deputy Speaker, we can answer this Question on behalf of the Public Service Commission on Tuesday.

The Temporary Deputy Speaker (Prof. Kamar): We have not received the very communication that the Leader of Government Business has made to us that the Question has been re-directed to your Ministry. However, since you have confirmed that you are taking over the Question, Mr. Warugongo, can we rest at that?

Mr. Warugongo: Madam Temporary Deputy Speaker, I will be here to listen to the answer on Tuesday, next week.

(Question deferred)

The Temporary Deputy Speaker (Prof. Kamar): Next Question, Dr. Kones!

Question No.234

POSTING OF MEDICAL STAFF TO
KOIWA HEALTH CENTRE

Dr. Kones in not here! The Question is dropped!

(Question dropped)

The Minister for Public Health and Sanitation (Mrs. Mugo): On a point of order, Madam Temporary Deputy Speaker. I want to point out to the House that it is important that when Members have Questions on the Order Paper, they need to be here to ask them. When Ministers are not in the House, we get a rapping. I am here with my Assistant Minister and are ready to answer the Question.

Dr. Eseli: Madam Temporary Deputy Speaker, the truth of the matter is that we are ambushed and find out early in the morning that one's Question is on the Order Paper. On the other hand, Ministers are informed prior to the Questions coming up. I think it would be better if we got to know the contents of the Order Paper a day before, so that we know what is coming up the

following day.

The Assistant Minister for Education (Mr. Mwatela): Madam Temporary Deputy Speaker, there is a list of Questions that is published at the beginning of the week. Actually, it is published two weeks in advance.

The Assistant Minister for Education (Prof. Olweny): On a point of order, Madam Temporary Deputy Speaker. Is the hon. Member in order to say that Ministers are informed prior to the Questions appearing on the Order Paper, while the job of a Member of Parliament is to come to the House immediately the bell rings? What is their job?

(Laughter)

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, let us go through---

Mr. Linturi: On a point of order, Madam Temporary Deputy Speaker. Would I be in order to ask the Minister for Public Health and Sanitation that if she feels that she is ready to answer Dr. Kones' Question, she should do so? I believe when a Member asks a Question and it comes before the House, it is taken to be the property of the House. It is, therefore, no longer an individual Member's Question. This is a Question that has already been taken over by the House, I think she is supposed to answer it.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Linturi, you are out of order! It is the right of the Questioner to come and ask the Question. Before we own the Question the Member who put it must be here to ask the Question.

Hon. Members, I think both sides of the House must bear this in mind. Last week, the House adjourned early because two Ministers were not here to move their Bills. Today, we have deferred two Questions because two Ministers are not here, and dropped two Questions because the two Members are not here, I think we need to take the House very seriously.

Next Question, by Mr. Kiilu!

Question No.393

NON-COMPLETION OF MUTYAMBUA/MBENUU
DISPENSARIES

Mr. Kiilu asked the Minister for Public Health and Sanitation:-

- (a) whether she could state the identity of the firm that was awarded the tender for the construction of Mutyambua and Mbenuu dispensaries in Mbitini Division on 16th June, 1998;
- (b) what the terms and scope of the work were in the contract; and,
- (c) whether she could explain why the contractor abandoned the sites and indicate when the construction works are expected to resume.

I have, however, not received the written answer from the Minister.

The Minister for Public Health and Sanitation (Mrs. Mugo): Madam Temporary Deputy Speaker, I beg to ask for your indulgence. The Assistant Minister for Public Health and Sanitation has already spoken with the hon. Member this morning. He informed him that we have an answer to the Question which does not outline the details of the contract. Since the Member wants to know the content of the contract, we have asked for the contract from the Ministry of Public Works. As soon as we have it, we will be ready to answer the Question.

The Temporary Deputy Speaker (Prof. Kamar): Madam Minister, are you saying you

want the Question deferred? Do you need more time?

The Minister for Public Health and Sanitation (Mrs. Mugo): Yes, Madam Temporary Deputy Speaker. We have been told that we could receive the information by next week.

The Temporary Deputy Speaker (Prof. Kamar): When can you come back to answer it? Is next Wednesday fine with you?

The Minister for Public Health and Sanitation (Mrs. Mugo): Next Wednesday will do, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Kiilu, your Question will be answered. I think you will get a written answer before that.

Mr. Kiilu: Madam Temporary Deputy Speaker, with that assurance I take that apology.

(Question deferred)

The Temporary Deputy Speaker (Prof. Kamar): Next Question by Mr. Yinda!

Question No.244

AMOUNT OF LOAN FROM JAPANESE
GOVERNMENT TO KPA

Mr. Yinda asked the Minister for Transport:-

(a) whether he could disclose the total amount to be loaned to the Kenya Ports Authority (KPA) by the Japanese Government as well as the terms and conditions attached to the loan;

(b) whether he could indicate the amount budgeted for in respect of consultancy, the construction component and equipment to be supplied by the Japanese Government;

(c) whether he could table the Japanese companies that have formed joint ventures with Kenyan partners for the purpose of offering services as suppliers in the above arrangement; and,

(d) whether he could explain why Kenyan companies are not involved in the above venture.

The Assistant Minister for Transport (Mr. Mwau): Madam Temporary Deputy Speaker, I beg to reply.

(a) The Minister for Finance laid on the Table of the House a Sessional Paper No.1 on 10th June, 2008, for Kenya Government Guarantee of Japanese Yen 26.7 billion, which is equivalent to Kshs16.18 billion, loan from the Japanese Bank for International Co-operation (JBIC) to the Kenya Ports Authority (KPA) for the Mombasa Port Development Project, which was passed by the House last week.

The Japanese Government is loaning KPA a total of Japanese Yen 26.7 billion which is equivalent to Kshs16.18 billion as indicated in the Sessional Paper. The terms of repayment of the loan are ten years grace period and 40 years repayment period at 0.2 per cent interest. This is a Special Term of Economic Partnership (STEP) loan which provides that the main contractor and main consultants are sourced competitively amongst Japanese companies, while sub-contractors can be obtained locally in accordance with guidelines of borrowing issued by the Japanese Bank for International Co-operation.

(b) The amount budgeted for consultancy is Japanese Yen 2.572 billion which is equivalent to Kshs1.513 billion. The construction component is Japanese Yen 20.058 billion which is

equivalent to Kshs11.8 billion and the equipment is budgeted at Japanese Yen 2.605 billion which is equivalent to Kshs1.53 billion.

(c) It is too early to know the Japanese companies intended to form joint partnership with Kenyan partners for the purpose of offering services as suppliers. This is because the project will first undergo a detailed engineering design which is expected to last ten months following which a tender will be floated for Japanese companies to compete to be the main contractors. The main contractor is expected to have local sub-contractors. Therefore, it is not possible to table the names of any Japanese companies that have formed joint ventures with Kenyan partners for the purpose of offering services as suppliers in the above arrangement.

(d) Kenyan companies have been involved in the above venture as local counterparts to the main consultant who carried out the feasibility study and to the consultant who is to carry out the detailed engineering design. The Kenyan company offering counterpart services for both, is BAC Engineering Consultants.

Madam Temporary Deputy Speaker, I can confirm to the House that, for all consultancy services, the Japanese Bank for International Co-operation (JBIC) guidelines provide for local counterparts.

Mr. Yinda: Madam Temporary Deputy Speaker, I would like to thank the Assistant Minister for that comprehensive answer to the Question. However, my concern is that, at present, we have a lot of international companies ready to build terminals on a BOT basis. That means they will build, operate and after 20 years or so, they will transfer the terminals to Kenya. Why was it necessary to get into this high-cost project when we could have got free money from investors to build the terminal?

Mr. Mwau: Madam Temporary Deputy Speaker, the hon. Member for Alego Usonga has asked a question that does not form part of the main Question that he had asked. If that could have been part of the Question, then I would have been able to respond to it.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker. If you listened to the Questioner clearly, you would realise that his supplementary Question was within the framework of this Question. Am I in order to say that the Assistant Minister is not conversant with the operations of the Port and, therefore, his capacity is a bit limited, and that is why he has a problem in answering this Question? Could you defer the Question until the Minister himself comes to answer it?

Mr. Mwau: Madam Temporary Deputy Speaker, I hope that the hon. Member understands English. The hon. Member for Alego Usonga asked whether the Minister is aware that companies are prepared to offer to build and transfer (BOT) Port facilities and that the Government has not accepted that particular offer. Those companies have not been mentioned. So, I cannot deal with the abstract.

Mr. Mbadi: On a point order, Madam Temporary Deputy Speaker. I am still coming back to the earlier point that I raised. I understand English very well; I had a pass in English and I have gone to the highest level of education.

When an Assistant Minister takes the Floor of the House to answer a Question, he should be prepared for supplementary questions. They do not have to be the same as those Questions on the Order Paper. The supplementary question that the Questioner is asking is simple: When you are making the decision to grant---

Madam Temporary Deputy Speaker (Prof. Kamar): Order, hon. Member! Are you on a point of order, or do you want to ask your question?

Mr. Mbadi: Madam Temporary Deputy Speaker, I wanted to make it clear, because it seems that the Assistant Minister is struggling to understand my point of order. I wanted him to understand it. Did the Assistant Minister understand the question, and if so, why can he not answer

it?

Mr. Mwau: Madam Temporary Deputy Speaker, again with due respect to the hon. Member, the Question talks about a loan that the Japanese Government is giving to the Government of Kenya and not that the Government of Kenya has floated offers for people to participate in the Port management. The Question that I am answering relates to the loan that is being granted to the Government of Kenya by the Japanese Government. The supplementary question said that there have been people who are prepared to offer to build and transfer the same facility. That has nothing to do with the Question that relates to a loan. I am prepared to answer any supplementary question that relates to the Question as long as the hon. Member understands.

Dr. Eseli: Madam Temporary Deputy Speaker, I would like to ask the Assistant Minister that now that it is public knowledge that the Port of Mombasa is supposed to be privatised, and here we are taking a loan guaranteed by the Kenyan citizens, are we trying to guarantee a loan that is going to just assist profiteers at the Port, including PEPE? It is Kenyans who are guaranteeing the loan!

Mr. Mwau: Madam Temporary Deputy Speaker, I have regard for the hon. Member, but PEPE is not at the Port of Mombasa. I hope he will understand that in future.

Mr. Temporary Deputy Speaker, Sir, however, I want to state that as long as the Port of Mombasa remains a Government entity, which is a body corporate, and until the time it is privatised, its development cannot be stalled. It has to continue. As long as there are no particular people who are prepared to undertake the work and give the loan to the Government of Kenya, the Government will always accept loans from other people who are willing to assist. I want to point out clearly that the loan that the Japanese Government is giving to Kenya, has an interest of 0.2 per cent and ten years grace period. Even the World Bank does not give us loans on those terms.

Mr. Sambu: Madam Temporary Deputy Speaker, I still feel that the Assistant Minister is avoiding questions. The Hon. Member for Alego is asking a very straightforward question: What is the point of going for a loan when we can get the same thing done with free funds on a BOT basis? Could he please answer that?

Mr. Mwau: Madam Temporary Deputy Speaker, it is as if we are trying to deal with the issue which has already been dealt with. The issues that he is raising now should have been raised when the Sessional Paper No.1 was brought to the House. Already, that has been approved by this House and we cannot reopen it.

Madam Temporary Deputy Speaker (Prof. Kamar): Last question, Mr. Yinda!

Mr. Yinda: Madam Temporary Deputy Speaker, I would like to thank the Assistant Minister, however, I concur with my colleagues that the Assistant Minister could do a better job with my question about BOT. The fact that this House passed the Sessional Paper No.1 and accepted the Japanese loan of Kshs16 billion does not mean that it cannot be reconsidered. This is a lot of money. If we find that we can still get people who can build the terminal on BOT terms, this money could be directed somewhere else. I would also like the Assistant Minister to clarify whether the site where the terminal is being built is the best under the circumstances. My reason for saying that is because I feel that the site where the terminal is proposed to be built will not bring any changes to the Port; at the moment the biggest problem is the off-take of cargo from the Port to upcountry because of the railways inability to perform. My question is: could that money, Kshs16 billion, be use on the second terminal at Dongo Kundu and not on the site where it is planned at the moment?

Mr. Mwau: Madam Temporary Deputy Speaker, first I want to say categorically that the Ministry is willing and ready to accept any BOT offers by any credible companies. As soon as, maybe, the hon. Member provides people, who are willing build and transfer any facility at the Port, the Ministry will be happy and will consider such offers. Secondly, I have clearly stated that

the detailed engineering designs of the Port are going to take about ten months. If, for any reasons, the fears raised by the hon. Member for Alego Usonga turn out to be genuine, then I can assure him that appropriate decisions will be taken to locate the facility where it will be adequately and properly utilised.

Question No.274

DILAPIDATION OF INFRASTRUCTURE AT
KENYA WATER INSTITUTE

Mr. Mwiru asked the Minister for Water and Irrigation:-

(a) whether she is aware that the existing infrastructure, including buildings, at the Kenya Water Institute at Chiakariga (Tharaka), are condemned to dilapidation due to under-

utilization and failure to admit students since inception; and,

(b) what plans she has to post a director, instructors and admit students into that institution.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Madam Temporary Deputy Speaker, I beg to reply.

(a) Yes, I am aware that physical infrastructure, including buildings at Chiakariga (Tharaka), and which belongs to the Kenya Water Institute (KEWI) are presently not being utilized. A land ownership problem has delayed crucial investment in the Institute. However, formalisation of ownership of the Institute is being processed by the Ministry of Lands to facilitate re-development and use.

(b) My Ministry has already initiated measures towards making the institution operational through a ten-year Strategic Plan - 2008 to 2018. The Strategic Plan will implement short, medium and long-term programmes in capacity development both in training and applied water research. The Institute plans to admit the first batch of students for long term courses in January, 2009. That will be after completion of major rehabilitation works planned for in the first half of this Financial Year 2008/2009.

Mr. Mwiru: Thank you, Madam Temporary Deputy Speaker. I appreciate the answer given by the Assistant Minister. But there are a few issues that he has not clarified in his answer. There is a land dispute concerning that particular Institute. That is an area that has not been adjudicated. It was the county council that had donated the land to an international agency and, thereafter, transferred to the Ministry of Water and Irrigation. I want to know what kind of dispute has arisen from that point. As far as I know, the land was donated by the community and the area has not yet been adjudicated.

Mr. Kiunjuri: Madam Temporary Deputy Speaker, the dispute has already been resolved. We are now waiting for the title deed from the Ministry of Lands. We have also held several meetings with the community, Provincial Administration and the Kenya Water Institute to start preparing them not only for admission of students to the college, but also to educate them on the other benefits that will accrue from the facility being within that area.

Question No.282

BREAKDOWN OF POLICE RECRUITMENT
NUMBERS SINCE 2005

Dr. Eseli asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he could give a district-by-district statistics of police officers recruited since 2005; and,

(b) whether he could also indicate, giving names, reasons and home districts, of officers who have been dismissed from the force since 2005.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Madam Temporary Deputy Speaker, I seek the indulgence of the Chair to request a deferment of this particular Question for two weeks, so that I can get all the details. The Question is quite elaborate and I need to give a very good answer to the hon. Member. We had actually agreed that I should answer this Question after two weeks.

The Temporary Deputy Speaker (Prof. Kamar): Dr. Eseli, are you comfortable with that?

Dr. Eseli: Madam Temporary Deputy Speaker, we had agreed with the Assistant Minister. He explained that the

Police Department is not computerised, which is very unfortunate! If it is computerised, it does not have computer experts who can bring out the statistics at the touch of a button. That is very unfortunate! I think we are a bit "BC", that is, "Before Computer" and I think that is very unfortunate. So, because of that, I will accept the indulgence from the Assistant Minister.

The Temporary Deputy Speaker (Prof. Kamar): So, the Question is deferred until two weeks.

(Question deferred)

Question No.288

PAYMENT OF COMPENSATION
TO MR. B.A. JAKA

Mr. Chanzu asked the Minister for Labour:-

(a) whether he is aware that Mr. Bernard Ambasa Jaka, who was an employee of Kenya Breweries Limited, Kisumu Branch, suffered severe injury which deformed his right arm in the year 1996 while on duty; and,

(b) what action he has taken to ensure that Mr. Jaka is promptly compensated under the Workman's Compensation Act and other laws.

The Assistant Minister for Labour (Mr. Ojaamong): Madam Temporary Deputy Speaker, I beg to reply.

(a) Yes, I am aware that Mr. Bernard Ambasa Jaka, who was an employee of Kenya Breweries, Kisumu Branch, suffered severe injury which deformed his right arm in the year 1996, while on duty.

(b) I have already acted pursuant to powers conferred upon me under the Workman's Compensation Act, Cap.236, and the Kenya Breweries Limited has drawn a bankers cheque No.020688 amounting to Kshs88,544.00 in favour of Mr. Jaka. The hon. Member is requested to advise Mr. Jaka to go to Kenya Breweries Limited, Ruaraka, to collect the bankers cheque, if he has not done so.

Mr. Chanzu: Madam Temporary Deputy Speaker, while I appreciate what the Assistant Minister has done, you can that see the answer talks about 1996. That is more than ten years ago. I think there are many Kenyans who have been affected by those kinds of incidents in their workplaces. I would like the Assistant Minister to confirm what action he is taking to ensure that,

when those kinds of issues arise, they do not take too long to be compensated.

Madam Temporary Deputy Speaker, secondly, if the accident occurred in 1996, they are paying Kshs88,544.00 based on what occurred at that time. Could the Assistant Minister consider increasing that figure based on inflation?

Mr. Ojaamong: Madam Temporary Deputy Speaker, the hon. Member has asked two questions. One, is what we are doing to speed up the processing of compensation claims. In the last Parliament, you can recall that we revised our labour laws and lessened the time for compensation for injured persons. I would like to advise the hon. Member to go through the Work Injury Benefits Act. He will find that---

Mr. Chanzu: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to tell me to go through the Act, when it is the responsibility of the Ministry to ensure--- That is why the Ministry is there! It is there to ensure that those who are injured in their workplaces are adequately and properly compensated on time.

Mr. Ojaamong: Madam Temporary Deputy Speaker, I was just trying to inform him what we have done in our labour laws now. Our previous labour laws actually created some kind of hinderance in the processing of those compensations claims.

His second question was whether we could compensate the injured person, Mr. Jaka, according to the current rates. That is not possible! But we advise that Mr. Jaka can go and file a civil case seeking for damages from Kenya Breweries Limited.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, this is one of the Ministries that we are hoping to get a change from the Minister to the rest. That is because 12 years is a very long time. I am very sure that, if hon. Chanzu had not brought this Question to the House, no payment would have been made. It appears that this Ministry has colluded with the employers. At the same time---

The Temporary Deputy Speaker (Prof. Kamar): What is your question?

Mr. C. Kilonzo: I am getting there, Madam Temporary Deputy Speaker. Apart from colluding with the employers, the same Ministry has gone into a slumber. We saw the Minister accepting yesterday, that he was not aware when funds were being invested elsewhere---

The Temporary Deputy Speaker (Prof. Kamar): Hon. C. Kilonzo, this is Question Time!

Mr. C. Kilonzo: The Question is: What is the Government doing to deal with the Minister in this Ministry who has failed workers? The same Minister was there in the Ninth Parliament. How long are we going to continue to bring Questions of this nature here because the Ministry has failed to ensure that workers are paid?

Mr. Ojaamong: Madam Temporary Deputy Speaker, the hon. Member has been in Kenya for some time and he knows what happened to the Ministry of Labour. The Ministry was forced to reduce its staff, and its current Budget is just less than a billion shillings. We have a limited number of staff, and that is why we cannot handle most of these cases. We have so many cases of this kind. We are carrying out an audit to find out how we can fast-track the payments of the people who are injured at their workplaces.

Madam Temporary Deputy Speaker, the Ministry, or the Minister, has not gone into a slumber. We are very active. It is unfortunate that the Ministry is a tripartite Ministry. It involves two other social partners, namely the Federation of Kenya Employers (FKE) and the Central Organisation of Trade Unions (COTU). If the FKE fails to agree with the two other social partners, we cannot move. That is what is happening now. In the Ninth Parliament, we enacted five labour laws, but we have not started implementing them because we have not yet constituted the National Labour Board. This is because the FKE is not working with the Ministry and the COTU to ensure that these laws are implemented, so that the workers can benefit from them.

Mr. Baiya: Madam Temporary Deputy Speaker, considering the severe injuries on the right arm that were suffered by this employee, does the Assistant Minister consider the Kshs38,000 reasonable and fair? Is this adequate compensation, or a paltry payment to appease the injured worker?

Mr. Ojaamong: Madam Temporary Deputy Speaker, I went through the workman's compensation form and the worker had a very slight injury on the index finger. So, it was not a major injury. So, I consider the compensation very adequate.

Mr. Were: Madam Temporary Deputy Speaker, this injury occurred in 1996. When an employee is injured at his workplace, the procedure is that the employer should fill Form LD104. Then a doctor fills in part "b" to ascertain the extent of the injury. This is a procedure that takes less than a month. Has the Assistant Minister tried to find out why this has taken the period from 1996 to 2008 for the employee to be compensated? This could have been done within a month!

Mr. Ojaamong: Madam Temporary Deputy Speaker, the Kenya Breweries Ltd. (KBL) branch in Kisumu closed down abruptly. As a result, there was loss of documents. The insurance firm that the KBL had engaged went under. As a result, the firm was unable to compensate the victim. So, all along, the officials in the Ministry have been pursuing this matter. They have sent several reminders. When the hon. Member brought this Question to our attention, we took the initiative to talk to the management of the KBL, who opted to pay on their own without reference to the insurer.

Mr. Were: On a point of order, Madam Temporary Deputy Speaker. The Assistant Minister is misleading the House! In normal circumstances, the employer is supposed to pay the claim first and then seek compensation from an underwriter. So, the issue of the insurance company going under is not a reason for the claim not to have been paid.

Mr. Ojaamong: Madam Temporary Deputy Speaker, indeed, what the hon. Member has said is true. When our officers referred the matter to the KBL, the KBL then referred the matter directly to its insurers. I must admit that the previous labour laws were quite weak. They could not be enforced as they were. The KBL referred the matter to its insurers who had gone under. As a result, the KBL could not compensate the injured person. I agree with the hon. Member, but our previous labour laws were very weak.

Mr. Chanzu: Madam Temporary Deputy Speaker, the Ministry of Labour is very important in a developing country like Kenya. Yesterday, the Minister for Labour gave a Statement here on the National Social Security Fund (NSSF). I would like the Assistant Minister to assure this House that they are going to be on the look-out and prepare themselves for these kinds of illegalities instead of just sitting back and waiting for things to happen. Yesterday, we were informed that billions of shillings were lost at the NSSF, and the Minister is just sitting in the office and waiting to be told about it!

Could the Assistant Minister assure this House that the Ministry is going to be proactive and ensure that Kenyans get value for their money in terms of the Minister's and the Assistant Minister's salaries?

Mr. Ojaamong: Madam Temporary Deputy Speaker, indeed, our Ministry is very proactive. That is why we take very serious disciplinary action against all those who are involved in the oppression of the workers, and even those who are trying to get money illegally. In the Ninth Parliament, we hurriedly passed five labour laws, namely the Labour Relations Act, the Employment Act, the Work Injury Benefits Act and two others. To date, we have not yet started implementing these labour laws, just because the FKE is not happy with two of these laws. Our employees continue to suffer just because the FKE has failed to nominate representatives to the National Labour Board. As a result, the Ministry cannot move forward. In fact, we are still at a standstill. We cannot use the previous laws, neither can we enforce the current laws, because of

lack of co-operation from the FKE.

Question No.342

PAYMENT OF COMPENSATION TO
FAMILY OF LINDAI LEKILIA

Mr. Letimalo asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that the family of one Mr. Lindai Lekilia of Lodungokwe Location, Wamba Division, who was killed by a leopard sometime in 1998, and a report made to Wamba Police and the KWS, has not been compensated to date; and,

(b) what urgent measures he is taking to ensure that the family of the deceased is compensated without further delay.

The Temporary Deputy Speaker (Prof. Kamar): Is the Minister for Forestry and Wildlife not here? Leader of Government Business!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Madam Temporary Deputy Speaker, my office got information this morning that the Minister for Forestry and Wildlife accompanied the Prime Minister to Mau Forest, and he is not back in town. He requested that this Question be deferred.

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. I respect the Vice-President and Minister for Home Affairs of the Republic of Kenya. He is an advocate of the High Court and he knows that in every Ministry there is a Minister and an Assistant Minister. Is he in order to stand here and play ignorance when he should give us the actual reason why this Question is not being answered? The Ministry of Forestry and Wildlife has taken exactly ten years without compensating the family of this person who was killed by a leopard! This is another trick by the Government to avoid compensating this particular family!

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Could he, please, respond to the first point of order?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Madam Temporary Deputy Speaker, when I was given that explanation this morning, I was not happy, just the way Dr. Khalwale is rightfully looking aggravated. I have a copy of the answer---

Dr. Khalwale: Read it!

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Madam Temporary Deputy Speaker, the answer is not even readable, because the compensation level is Kshs30,000 for loss of life while I know that this House amended the particular provision. I want to plead with hon. Letimalo to wait for the Minister to come and deal with this Question. In the meantime, my office will communicate the seriousness of this matter, so that this House gets a satisfactory answer.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Vice-President and Minister for Home Affairs, can you tell us when this Question will be answered?

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Madam Temporary Deputy Speaker, I think it should be put on the Order Paper for Thursday.

The Temporary Deputy Speaker (Prof. Kamar): Thank you. Next Question!

Mr. Letimalo: On a point of order, Madam Temporary Deputy Speaker. This Ministry is notorious for deferring Questions. Yesterday, I had a Question addressed to this Ministry and it was

deferred without consultation. Now, the Leader of Government Business has been given the answer, I think he should be able to answer it. This person has not been compensated for the last 10 years and we are being told that the cheque is just lying in the District Commissioner's office. Why are they playing with Kenyans? I think there must be something wrong with the Ministry.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Letimalo, we are informed that the Minister is not around. He has accompanied the Prime Minister.

Hon. Members: That was yesterday!

The Temporary Deputy Speaker (Prof. Kamar): Order, hon. Members! Some of you seem to know the programme of the Minister more than we do. I hope you are not reading this information in the Press because that is not what this House will deal with. According to the information that has come from the Leader of Government Business, the Minister is still out. He was out yesterday and we do not know where he is today. He is out today.

Next Question, No.412!

Mr. C. Kilonzo: On a point of order, Madam Temporary Deputy Speaker. With all due respect, we all know that the Vice-President and Minister for Home Affairs, who is a very good friend of mine---

(Laughter)

Madam Temporary Deputy Speaker, there are Ministers who do not believe in delegating duties to their Assistant Ministers. This is one very good case. We have been told where the Minister is, therefore, we do not want to debate on that. Where are the Assistant Ministers?

The Temporary Deputy Speaker (Prof. Kamar): Mr. C. Kilonzo, we ruled this morning that we are paid on both sides of the House. The absence of the Assistant Minister also from the House is wanting. We had absent hon. Members from both sides of the House, so their Questions were dropped. We also had absent Ministers so the Questions were deferred. We must all take the House very seriously. You cannot blame the Minister for the absence of the Assistant Minister in the House. So, I rule that we defer this Question according to the information we have received until the Minister comes to the House.

(Question deferred)

Next Question.

Question No.412

BUDGETARY ALLOCATION FOR TARMACKING
OF MAILI TATU-LAARE-MUTUATI ROAD

Mr. M'Mithiaru asked the Minister for Roads:-

- (a) whether he is aware that Maili Tatu-Laare-Mutuatu Road which was tarmacked in 1996-1998 is dilapidated beyond repair,
- (b) whether he is further aware that for the last six years or so, funds have consistently been allocated for patching of potholes on the road but its state has not improved, and,
- (c) what budgetary allocation he has made in the 2008/2009 financial year towards re-tarmacking of this road.

The Assistant Minister for Roads (Mr. Kinyanjui): Madam Temporary Deputy Speaker, I

beg to reply.

(a) I am aware that Maili Tatu-Laare-Mutuati Road which was tarmacked in 1996/98 has deteriorated.

(b) I am aware that for the last six years or so, funds have been consistently allocated for patching the potholes on the roads but its state has not improved. The road is made up of two roads; that is, B486 and E817, which fall under the purview of the District Roads Committee (DRC). Given the extent of the deterioration of the roads, the Ministry has an intervention measure of pumping Kshs1.5 million from the Fuel Levy Budget to make the roads motorable.

(c) The Ministry is in the process of procuring a variation order on Farm Kawiru-Mutuatu-Kachuru Road to rehabilitate the road to motorable standards during this financial year.

Mr. M'Mithiaru: Madam Temporary Deputy Speaker, I am not really satisfied with the answer from the Assistant Minister although he has tried. He has admitted that the road is terribly dilapidated and that they have now allocated Kshs1.5 million to do the patching of potholes. This is a very small amount for an 18 kilometre stretch of road. We have noted before that when they do patching up, normally, they use soil instead of bitumen. Could the Assistant Minister confirm that they will not use soil to patch up the road given that they have allocated Kshs1.5 million for the work?

Mr. Kinyanjui: The road in question is category B and E. According to our categorisation, Class A, B and C fall under the Ministry and classes D, E and others fall under the District Roads Committees. It has been noted that under Class D, E and others, the DRCs are not given sufficient money to repair the roads. As a result, they have tended to focus more on the roads that require murraming. The Ministry has therefore put Kshs1.5 million which we acknowledge is not sufficient, but as I have indicated in part "c" of my answer, we have an ongoing contract on a road adjacent to that one; that is, C91. We will issue a Variation Order to the contractor to do this road and return it to motorable conditions within this financial year. That will be done as soon as possible.

Mr. Chanzu: Madam Temporary Deputy Speaker, I am happy that the Vice-President and Minister for Home Affairs is here. I want to make a suggestion. The reason why most of the roads in the country are wearing out very quickly is that the foundations are too old and the sub-structure is worn out. So, even patching up does not help. I would like to suggest that we have technically qualified people running some of these Ministries so that we can have appropriate answers. We are losing a lot of money through variation orders and the Assistant Ministers is telling us that they will issue a variation order to do an extension of the road. Why can it not be a new project? Why can he not tender the works?

Mr. Kinyanjui: Madam Temporary Deputy Speaker, I wish to remind the hon. Member that the road in question is only 18 kilometres. Eighteen kilometres is really not a long stretch. Given the nature of the road and the importance that we attach to that, sometimes the process of tendering might take too long. In view of the importance of the road and the role that it plays in that region to the economy and the people of that area, a variation order will take less time and be able to serve the people there.

Mr. Mwiru: Madam Temporary Deputy Speaker, Sir, you realise that this road was completed in 1998. This is only 10 years ago. Money to recarpet the potholes was allocated four years after completion of the road. This seems to have been a conduit for some people to siphon public money. A bitumen road having stayed for only---

The Temporary Deputy Speaker (Prof. Kamar): Ask your question!

Mr. Mwiru: I am about to ask my question, Madam Temporary Deputy Speaker. What is the lifespan of a bitumen road after completion before it starts getting dilapidated? How much time

is it given?

Mr. Kinyanjui: Madam Temporary Deputy Speaker, a road could last up to 30 years or maybe more, depending on the usage. We are all aware that we have been overloading our roads. The drainage has been a big problem and it becomes very difficult. My Ministry is currently trying to enforce a ban on four axle trucks. Whenever you have those trucks on the road, the damage on the road is extremely high. I think it is upon us - and not just the Ministry - to ensure that we use the roads properly. Whenever we have water in contact with the tarmac or bitumen, the lifespan of that road is compromised. Whereas we agree that the specifications may not have been followed, it is also true that in terms of road usage, we have not been the best. However, my Ministry will do the best it can to ensure that when it comes to road construction, sufficient supervision is done to ensure that we get the best.

Dr. Monda: On a point of order, Madam Temporary Deputy Speaker. Is the Assistant Minister in order to mislead this House that a road whose distance is 18 kilometres is such a short road that its construction should not be subjected to the procurement procedures laid down by the Government?

Mr. Kinyanjui: Madam Temporary Deputy Speaker, I would like to clarify that issue. I did not say that it is not big enough or important. I said that we already have a contractor who is doing a road adjacent to that one. The process of getting a new contractor on site may be long. So, what we normally do in such a case is that, we ask them for a quotation for that road. If, indeed, it goes by estimates that we already have, then we will grant it. Of course, we have limits and standards showing how much the construction of a kilometre of road should cost. The road in question is 40 per cent potholed. So, we are not talking of the construction of a new road all together.

Mr. M'Mithiaru: Madam Temporary Deputy Speaker, when the Maili Tatu-Laare-Mutuati Road was constructed, it was a very narrow one. It never provided for shoulders and there was also poor drainage. Could the Assistant Minister confirm that in the variation, they are now going to take all these things into account to ensure that it is a fully classified road so that it gives our people ample service?

Mr. Kinyanjui: Madam Temporary Deputy Speaker, in the variation order that we intend to give out, we will, indeed, ensure that all the necessary measures are taken into account so that the road can be put into a usable condition. That will also prolong the life of the road. We will look at things like the drainage and the shoulders.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, we will go back to Question No.149. The Deputy Prime Minister and Minister for Local Government has given a reasonable reason why he came in late.

Proceed, Mr. Linturi!

Question No.149

APPOINTMENT OF COUNCILLORS TO LOCAL
AUTHORITIES TENDER COMMITTEES

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

- (a) whether he could explain why only the Chief Officers in the local authorities (i.e. the Clerk and the Treasurer), who invariably are not from the respective regions, are the signatories to the council funds;
- (b) what plans the Government has to ensure that councillors, who are the people's representatives, are appointed to the Tender Committees of local authorities; and,

(c) what steps he will take to ensure that the contracts under devolved funds, particularly the Local Authorities Transfer Fund (LATF), are utilized to reduce poverty in the local areas by awarding contracts to the locals.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Madam Temporary Deputy Speaker, let me once again apologise for not having been here when the Question was asked the first time.

However, I beg to reply.

(a) Yes, it is true that the Clerk and the Treasurer are the sole signatories of the council funds. This is because the Local Government Act, Cap.265, sections 129 and 130 mandate them to be signatories to the council funds. Secondly, they are the chief officers or executives and finance officers as mandated by the above mentioned sections. Part III of the Third Schedule provides that the Treasurer shall be the accountant, the paymaster collector and financial advisor of the local authority. So, the law locks out other council officials from being signatories to the council funds.

(b) The appointment of the Tender Committee is now governed by the Public Procurement and Disposal Act, 2005. This is why councillors are not members of the Tender Committee. My hands are tied in this particular respect and it may be necessary that the Public Procurement and Disposal Act be amended to allow for councillors to be part of the Tender Committee.

(c) Through the LASDAP process, my Ministry has directed the following steps to be undertaken by all local authorities:-

Local communities should appoint representative committees which should choose projects ranging from health, water, infrastructure and education, which are all aimed at alleviating poverty. They should undertake advertisements at the local level and also source labour and materials locally.

Madam Temporary Deputy Speaker, in the same guidelines, community contracting is being encouraged. Local authorities can contract communities through the Labour Contract, Labour and Material Contract and even Complete Contract. This entails the awarding of the overall implementation management of the project to a qualified community organisation which has a proven track record and is registered.

My Ministry, through Circular No.5 which was issued in 2008 to all local authorities, also requires that they provide, in their respective budgets, an allocation equivalent to 20 per cent of the total LATF allocation to support core poverty programmes, projects and activities aimed at reducing poverty within the local area.

Mr. Linturi: Madam Temporary Deputy Speaker, let me thank the Deputy Prime Minister for his attempt to answer this Question. However, I would like to point out that he has completely hidden himself under the law, that is the Local Government Act, Cap.265, and the Public Procurement and Disposal Act, 2005. I believe that councillors are the elected representatives of the people in the various wards that they come from. They are really accountable to the people. Money from LASDAP is basically meant to alleviate poverty in our local authorities. In the absence of the councillors involvement in the allocation of this money, I want the Deputy Prime Minister to tell us the steps he is taking now to ensure that the interests of the people within the wards that the money is supposed to be given is taken care of. The chief officers of the local authorities have reduced councillors to mere beggars who only seek favours from them whenever they go to ask for a project to be implemented because they are not involved in this process.

Mr. Mudavadi: Madam Temporary Deputy Speaker, I have stated that there is a valid argument in what the hon. Member is saying. However, I have also said that the Public Procurement and Disposal Act, 2005, that was passed by this House, indeed, has some flaws and it will be necessary for us to review the clauses in that particular Act in order to facilitate an element of broader participation at the level of local authorities. I agree that it is wrong to completely lock

out the local representatives from those committees.

Dr. Khalwale: Madam Temporary Deputy Speaker, the import of locking out these councillors is that when tenders are eventually awarded, they are given to companies or individuals that are either friendly or best known to the Treasurer and the Clerk. Most times, these companies will come from the area outside the county council. In view of where I and the Deputy Prime Minister come from, would he support a system that does not allow local people from Kakamega and Vihiga to participate in the construction so that Government money remains in local companies? What is he doing to alleviate this?

Mr. Mudavadi: Madam Temporary Deputy Speaker, first and foremost, the law is as it is now, is markedly unfair. I have, in the meantime, instructed that all processes and procedures must also be made available to the relevant committees of the council. It could be the Finance Committee or the ones involved in overseeing projects or programmes. This must be done and I have instructed the local authorities to do so. However, the right thing that must be done is to strictly amend the Public Procurement and Disposal Act and allow for the inclusion of these leaders in the tender committees.

Mr. Mbadi: Madam Temporary Deputy Speaker, I think I heard the Deputy Prime Minister and Minister for Local Government say very clearly that the problem we have at the moment is the Local Authorities Act. The mistakes that were committed in this Act were done in the mid 1980s and late 1980s. I do not want to say who was the Minister then.

Could the Deputy Prime Minister and Minister for Local Government then now take this earliest opportunity and assure this House that those amendments which were brought to make this Ministry an executive one, are taken away so that the local authority leaders; the councillors, can have the power to work?

Mr. Mudavadi: Madam Temporary Deputy Speaker, I have stated quite a number of times and I state again, that we are going to bring broad-based amendments to the Local Government Act, Cap.365 which will help in the management of local authorities.

Ms. Chepchumba: Madam Temporary Deputy Speaker, Sir, I heard very well the Deputy Prime Minister and Minister for Local Government say that his hands are tied. Could he tell us who has tied his hands?

(Laughter)

Mr. Mudavadi: Madam Temporary Deputy Speaker, it is this Parliament that has tied my hands because it is the one that passed the Public Procurement Act which we must now follow. Now, the only way to untie my hands is to bring amendments to that Bill here, so that the entity that tied our hands can untie them.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, the Deputy Prime Minister and Minister for Local Government has insisted that his hands are tied by the Public Procurement and Disposal Act, 2005, and at the same time, you are aware that the CDF is in operation through a special circular from the Ministry of Finance. Why can the Deputy Prime Minister and Minister for Local Government not organise, for the time being, a similar circular to ensure that councillors and the people are able to supervise their own money?

Mr. Mudavadi: Madam Temporary Deputy Speaker, I have said that I have already communicated to the local authorities that we want all the information made available to the civic leadership in all the local authorities. I have also addressed all the chief officers and told them not to hide anything from the councillors in their respective jurisdictions because they must have full knowledge of what is going on.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, we have exhausted our time for Questions. Next Order!

POINT OF ORDER

DESTINATION OF HIJACKED UKRAINIAN SHIP

Dr. Khalwale: On a point of order, Madam Temporary Deputy Speaker. Last week, the Chair ruled that a Ministerial Statement which I had demanded from the Ministry of Foreign Affairs in respect of the cargo ship that has been hijacked in the Indian Ocean be issued this week. Nothing happened yesterday and it looks like nothing is about to happen now. Could you guide us?

The Temporary Deputy Speaker (Prof. Kamar): Our job for this week ends tomorrow. So, we still have tomorrow.
Next Order!

MOTIONS

CREATION OF DISTRICTS BASED ON CONSTITUENCIES

Mr. Kaino: Madam Temporary Deputy Speaker, I beg to move the following amended Motion. The Speaker has allowed me to do it under Standing Order No.41:-

THAT, aware that many countries are decentralising their Government structures to better respond to local needs; realising that centrally administered programmes do not always provide for effective programme delivery at the local level; aware that the Government has created a district in a number of constituencies on a one to one basis; this House urges the Government to create administrative districts on the basis of the existing constituencies.

The Temporary Deputy Speaker (Prof. Kamar): Mr. Kaino, could you highlight the areas where you have amended?

Mr. Kaino: Sorry, Madam Temporary Deputy Speaker. I have amended the last sentence of the Motion by deleting the words:- "With a minimum of three divisions to every district across the board".

Madam Temporary Deputy Speaker, having said that, I wish to say that this is a very important Motion. The intention and objective of this Motion is that this country is developing very fast and some constituencies in this country will be left behind very much if we continue to dish out districts on the roadside as it is today. There is no Act or legislation governing the creation or abolition of districts and I decided to bring this Motion so that this House can pass it, so that this country will be very strong economically and its resources will be shared equitably.

The creation of districts and provinces was an effective way of decentralising the Central Government to lower levels and to make services available and cheaper to the common man and woman on the ground. Services like health, issuance of land title deeds, the survey of land and demarcations should be done at the constituency level. This is also a way of reaching the people with better and improved services.

Madam Temporary Deputy Speaker, as you can see today, in every district, there is some allocation of funds which go directly to the district kitty. If you do not have a district as a constituency, only the constituencies with districts are the ones that benefit from it. What has

actually prompted me to bring this Motion is that many constituencies today have one Member of Parliament and one District Commissioner. This brings a lot of problems to those constituencies which are also not districts.

At the district level, the District Commissioner has a lot of administrative powers on the ground. When a Member of Parliament is there with the respective District Commissioner, you will find that there is a lot of improvement on the ground. When it comes to recruitment of civil servants, you will notice that it is based on districts. If you get a constituency where they have got three Members of Parliament and only one District Commissioner, you will find that there are chaos in that place.

Madam Temporary Deputy Speaker, the armed forces and police personnel are recruited based on the districts and every constituency has to get an equal share in that district, whereas a district with one constituency is allocated the same number of slots and many other things which are actually beneficial to the constituency. This is besides having one District Commissioner for the same constituency.

I am raising this concern because I know that if this House can approve this Motion, I am very sure that this country will develop very fast because we love the citizens of this country. Every President swears in this House that they will be fair to the citizens of this country and will distribute resources equitably and without discrimination.

Madam Temporary Deputy Speaker, right from the Kenyatta regime to Moi's and to the current President Kibaki's era, districts are just dished out through street pronouncements. If a President likes a specific place, he just announces: "Today, I give you a district", and it is given. We want a situation where this House controls such things. I intend to bring a Bill to this House which will ensure that for a district to be created, it must be subject to the law. It has to be backed by the law. Likewise, if a district is to be abolished or its boundaries reviewed, it should be done in accordance with an Act of Parliament.

After Independence, the Jomo Kenyatta Government, Moi Government and even President Kibaki's Government, have played lip-service when it comes to having a legal basis for these districts. There is no legal basis on the same and even in the creation of new ones. The illegality of dispensing financial resources even to non-gazetted districts makes this Government wanting. We must rise above board and have in place legal mechanisms that will not undermine whatever good Kenyans expect to get in services and leadership from a democratically elected Government. The political development in this country puts---

The Assistant Minister for Medical Services (Mr. Mungatana): On a point of order, Madam Temporary Deputy Speaker. I have tried to accommodate the hon. Member, but he is continuing to breach the House rules by reading his notes. Is he in order to read his notes instead of debating this Motion?

The Temporary Deputy Speaker (Prof. Kamar): Hon. Kaino, I thought that you were making reference to your document. Please, refer to them, but do not read them!

Mr. Kaino: Madam Temporary Deputy Speaker, there are some points that I do not want to miss. Therefore, I have to refer to the notes that I had already written. I do not want to miss anything because this Motion is very important.

I have just said that the late President Jomo Kenyatta, former President Moi and President Kibaki swore to make sure that there is equal and fair distribution of resources. I expected that even districts would be distributed fairly. But they illegally dished out districts. For that matter, if you are aligned to the President of the day, you can get whatever you want even if it is against the law. We want distribution of resources in this country to be backed by the law. That is why it is very important that all Members of this House, including the hon. Member who has just stood on a point of order, support this Motion. I am sure that he will be the first to back this Motion. There are so

many constituencies now with one Member of Parliament and one district commissioner. Probably, hon. Mungatana and many other hon. Members have only one district commissioner. I expect all Kenyans to be equal across the country, whether from Central, Rift Valley or Coast provinces. We need to serve this country without favour or discrimination. Let us put a stop to pronouncements on roadside, about the creation of districts, because they are very important.

As I have stated, I intend to bring a Bill to this House, that will bring changes regarding the creation or abolition of districts, so that we depart from the way it has been done since colonial times. Kenyans will feel that they have districts that will bring services on the ground.

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

The Temporary Deputy Speaker (Prof. Kamar): Who is seconding the Motion?

Mr. Kaino: Madam Temporary Deputy Speaker, hon. Outa will second this Motion.

Mr. Outa: Madam Temporary Deputy Speaker, I rise to second this Motion. This Government must create districts on the basis of the existing constituencies.

I would like to let this august House know that I had some difficulty in celebrating Kenyatta Day in my constituency. I was struggling to choose which district I would celebrate this national day in because Nyando Constituency is composed of two districts. So, both districts invited me to attend the celebrations. This is a confusion. I support this Motion which states that we should have only one district in a constituency, so that we bring the Government programmes and services closer to the local people. If we continue to give out districts based on political priorities, then we will miss what we call effective delivery of services to the people of this country. Therefore, I have seen that in my constituency with two districts, one of the divisions that is belonging to another district is not gaining from the Government programmes. For example, of late, the Government is giving money for rehabilitation to most secondary schools. But because of the confusion of districts in my constituency, only one district was favoured on the pretext that Nyando District is the district within the constituency, when we have two districts. The money was given to only one division within my constituency. The other one which falls under the other district was not favoured.

Madam Temporary Deputy Speaker, I beg to second this Motion that every constituency should have one district in this country.

(Question proposed)

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Thank you, Madam Temporary Deputy Speaker. First of all, I want to congratulate the hon. Member for bringing this Motion. I rise to support it. This Motion should have come yesterday; it is long overdue.

As I speak, the country has 210 constituencies and already we have 148 districts which are recognized by the Provincial Administration. One would wonder whether it is not discriminating against other Kenyans now that we have only 62 constituencies that are not districts. This is not an issue that should just be discussed here and no action is taken. This is because whenever we pass Motions in this House, it is the duty of the Government to go ahead and implement them. But for this Motion, we are demanding that it must be implemented. This is because districts have been dished out all over the country since Independence. Therefore, we do not have to consult. In fact, we should be debating this Motion and, at the same time, have a petition to the President and the Permanent Secretary in charge of internal security, so that they can go ahead and implement it immediately.

Madam Temporary Deputy Speaker, what we should be arguing about is the Budget allocation for District Commissioners (DCs), which Parliament should approve in the next financial year. In the meantime, DCs should be immediately sent to the remaining 62 districts, so that those districts are not discriminated against in one way or the other. Most Kenyans have been

discriminated against in one way or the other. For instance, in this country, the district is the basis on which Government resources are allocated. Therefore, if one district has three constituencies, it will be discriminated against in one way or the other.

I will give an example of each of my arguments. Looking at the way resources are allocated to the Ministry of Roads, for instance, if every district is to receive Kshs11 million, if your constituency happens to be lucky to have a district of its own, like mine, then your district will have Kshs11 million. However, Dr. Eseli might be sharing a district with three other Members of Parliament. In this case, the three constituencies have to share the Kshs11 million equally. This would mean that my constituency would have Kshs11 million for roads, while Dr. Eseli's constituency would have to share the Kshs11 million with three other constituencies. That way, you are discriminated against.

Madam Temporary Deputy Speaker, allocation of Government resources should not be concentrated in one area, while other areas suffer. Recruitment of Administration Police (AP) officers, Regular Police officers and Military personnel, as well as recruitment of teachers, is based on the districts. If 10 AP officers were recruited from my district, and 20 officers were recruited from Dr. Eseli's district, given that Dr. Eseli's district has three constituencies, it would mean that those constituencies are discriminated against. At the end of the day, there is no way their constituencies can have the same number of recruits as that of a constituency which is a district on its own.

In terms of recruitment of staff and admission of students to colleges, constituencies which are also districts are advantaged, because this is done based on districts. Kenya Medical Training Colleges (KMTC) base their admission on districts. Teacher training colleges also base their admission of students on districts. We do not require any professor to conduct any research to know that this is unfair. Therefore, it is the responsibility of the Government to rectify this mistake. The Government should take its responsibility and ensure that we implement this Motion, once it is passed, so that Kenyans can feel represented adequately.

Once an area is declared a district, you automatically have a District Commissioner (DC), who must go to there with a vehicle. A district must have an Officer Commanding Police Division (OCPD). He must go there with a vehicle. That district will have more than one Officer Commanding Station (OCS), who will go there with an additional vehicle. So, even in terms of administration, if a constituency is a district on its own, it is better off than that constituency which is sharing the same DC with two other constituencies.

When it comes to deployment of officers, if your constituency is a district, every Ministry will send a Head of Department to that Ministry. Your district will have a Medical Officer of Health (MOH), District Agricultural Officer (DAO), District Veterinary Officer (DVO), *et cetera*. Therefore, your district will be better placed than that district which is serving three or four constituencies.

The passage of this Motion should serve as a temporary measure. We should ultimately have a Constitution which will take care of the issue of equal representation because, even if all constituencies become districts, some people will still be discriminated against, because some constituencies have more people than others. That is why I support the Motion that has been tabled in this House, seeking to review the number of constituencies, so that we can have equal representation.

That is why we are calling upon our two principals to also speak out clearly on their position about the issue of reviewing the Constitution. We cannot keep on arguing on Motions here. We bring Motions like the one on the Floor because we are desperate, because no action is being taken. We should push for the review of the Constitution, so that all these issues can be addressed for the first time. If we had addressed the issue of constituencies, we could not have had

tribal clashes or the post-election violence that occurred at the beginning of this year.

If we had constituencies as the operational centres of the Provincial Administration, it would have been easier to deal with the post-election violence, because every constituency would be having a DC, an OCPD, several OCS and enough vehicles. So, they could have responded in good time. My constituency suffered even though there were no clashes there, simply because my DC had to deploy all the vehicles to the neighbouring Laikipia West Constituency, so that they could take care of the matters that were happening there.

A district like Kiambu District was affected by the post-election violence because, immediately the APs were deployed to the affected districts to quell the violence, thugs in Kiambu and other unaffected districts took charge. Therefore, we should not only convert constituencies into districts, but also have a marshal plan for equipping our APs and regular police officers. Even if we create all these districts, but police officers lack vehicles and communication equipment, it would be useless.

My constituency is a district of its own. However, my people are still suffering. Theft takes place every day in town. Why? As much as we have the DC and the OCPD, they are ill-equipped. There are not enough officers to represent the Government. There is no equipment or means of transport. Nothing is there! Therefore, for the first time, we must address this question. You cannot be a rich nation if crime is rampant. There is no way we can talk about peace in this country, if crime is rampant. We must make sure, for the first time, that this Parliament is able to vote. After every constituency becomes a district, we must vote enough money to equip the regular police, APs, DCs and DOs.

There can be no peace in this country if you cannot rear even a single head of cattle or goat. You cannot even keep five goats, because thieves come for them inside your house. So, we are really threatened. There is no way we can improve our children's education standards, our people's health or anything unless we take action in equipping our security officers.

My last point is that, for the first time, this House should not be taken for granted. Let the Bills relating to the review of the Constitution be tabled here. That is our work, and we should not have any other work. That was the Fourth Agenda of the Kofi Annan-led peace talks. Strangely, all of us are reluctant. We do not want to do it. I do not want to mention names, but our leaders, with whom I sit on this side of the House, are not talking about the review of the Constitution at all. They are waiting for the current constitutional order to prevail. They are waiting to become Presidents and use the same powers whose removal we have been fighting for, for the last 17 years.

Even if it means Parliament adjourning to discuss this issue as a matter of national importance, it should be done. We must shame those leaders who are not ready to take their responsibilities and ensure that we address the issue of constitutional review. We must allow Kenyans to know how they will participate. Things have drastically changed. After the post-election violence, a number of new issues arose. We should not be limited to a few documents that are already known, to guide the constitutional review process. We must be allowed to bring more memoranda and allow Kenyans to participate in the actual review of the Constitution.

With those few remarks, I beg to support.

Mr. Midiwo: Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to contribute to this very important Motion. What this Motion is seeking is something which this country should have done a long time ago for the sake of distribution of the much needed and limited resources that we have.

I want to begin by saying that Siaya District is the largest district in the country. We are 640,000 people in one district even though this country has districts with 40,000 people only. Last month, during the AP recruitment exercise, each district was allocated an average of 18 recruits. So, the three constituencies in Siaya District shared 18 slots. Then single-district constituencies

also get the same number. How are my people expected to feel? In any case, at the beginning of the campaigns there were 72 districts. Now, they are about 150 districts. That means there are only about 60 districts which are still large. If you rationalise, this Motion is actually as good as implemented.

Madam Temporary Deputy Speaker, last year when we went to Siaya with President Kibaki, Archbishop Ondiek, Mr. Weya and I asked the President to divide Siaya District because of its population and sheer vastness. He told us, "*hizo zimepeanwa, sasa hakuna*". The following day the President went to Hamisi and divided one constituency into two districts. How are our people supposed to feel? It is time for the Government to bring down unnecessary animosity towards it. We need to make the people accept that it is normal to engage the Government, have different opinions and still be part of the same country. I think this country owes our people that kind of thing.

The other day when there was the passing out parade of Administration Police officers, the whole of Siaya District only got 12 police officers and the order was, "take all of them to Ugenya Constituency". What happens to Alego and Gem constituencies with all the insecurity? We had to negotiate. I thank the District Commissioner (DC) for being so much more rational than the politicians up here.

Madam Temporary Deputy Speaker, for Constituencies that remain in large districts, the issue of population must be the key in distribution of resources. We must use the population! If we have a district with 20,000 people, when distributing resources, you must consider that population. In that case, many parts of our country require affirmative action. The parts of the country which have been considered "politically incorrect" must be catered for. Issues of resources are not issues we can sit back and turn our backs to.

We know that if you are in a constituency with a district, there are several advantages. Like my colleague, Mr. Kiunjuri said, there is a DC and several District Officers (DOs). If they are well equipped even the Questions we ask here in Parliament every day, about somebody stealing chicken and not being arrested, will be a thing of the past. This is because services will go closer to the people. We need to figure out how to equip our constituencies. We do not even have to call them districts. We only need to have a proper Government administrative unit at every constituency level. That way, a Member of Parliament will stop being a policeman and politician at the same time. That is what Members of Parliament are doing right now.

Madam Temporary Deputy Speaker, at Bomas, we sat as a nation and agreed on that. It was not a contentious issue. We need to implement it. I want to agree with Mr. Kiunjuri again that the issue of the review of Constitution is not something we want to go into Christmas discussing. Let us agree that we do this review of the Constitution and get over with it. Twenty years down the line, I think the issue is now sour in the brains of Kenyans. We do not seem to want to do the right thing. We promised these things during campaign but when it is convenient, we want to go in there and be like others. I think that is a very sad thing. We need to stop somewhere.

The world is changing and we need to figure out a Constitution which will enable Kenyans to feel safe. It will enable Kenyans to think that if it is budget time, the resources are not only going to be pushed to the corners where the President, the Prime Minister, the Vice-President or the Permanent Secretary come from. That is a real concern to Kenyans. Kenyans and even Members of Parliament need to feel safe that even though they are not Ministers, things will still be okay in the Constituencies they represent. That is a constitutional issue which we must address as a Parliament and a nation.

Madam Temporary Deputy Speaker, I would like to talk about service provision, be it the road network, police security, education or any social issue. They can only be addressed if this country devolves to the grassroots. We need to have a working Government at the sub-location

level and constituency level. As we create all these districts, we need to figure out who the DCs will answer to. They should answer to the people. They must be accountable to the people that they will be governing not some Central Government somewhere which has no idea about what is happening in the constituencies.

Finally, the Constituencies Development Fund (CDF) has been used to construct many facilities. For example, dispensaries, police stations and many other facilities constructed by Members of Parliament in their constituencies. However, because of the skewed distribution of resources, personnel and money, some of these facilities are white elephants.

Madam Temporary Deputy Speaker, in my constituency I have about three police stations which we constructed almost five years ago. It has been like we are begging the Government to staff them. Just last month, near one of the police stations, a man was hacked to death by mysterious people. His jaws were split and the private parts were missing. Two weeks later, another person was killed and his private parts were also missing. All one can do is call the police but nothing happens. To me, I think if we had a DC in the middle of my constituency and other resources, such things would be things of the past. We owe that to Kenyans.

I beg to support.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you Madam Temporary Deputy Speaker, for giving me the opportunity to support this very important Motion. This is a Motion that we must all fight to get implemented.

As politicians, let us take part of the blame. Many of the districts have been created because we asked for them. It is not like they were created by former President Moi or President Kibaki for nothing. Politicians have been asking for districts and in response they have been given. Therefore, we are also to blame. It is good that we begin by appreciating that as we ask for rationalisation of the districts.

Madam Temporary Deputy Speaker, the rules related to the creation of districts started being disrespected during the KANU regime. We used to have 42 districts but in the last 20 to 30 years new ideas came up. It became so politicised that districts were just being created all over. This is the reason that when Mr. Michuki, now a Minister, was in the Opposition, he challenged the creation of additional districts as being outside the law. He came up with a case in Court to challenge that. Unfortunately, as we have been saying, when we come to power, we do exactly the same things we were fighting against. When Mr. Michuki came in, as the Minister of State for Provincial Administration and Internal Security, he was spearheading the creation of other new districts.

Madam Temporary Deputy Speaker, this is an issue that we have to come to terms with. We should not change the rules and the goal posts just because we are the ones in positions of authority. New districts are not only associated with inequalities with regard to the distribution of resources, but they are also a problem with regard to management. There is a serious problem of mismanagement. When you have sub-locations that are not rationalised, and divisions with more locations than the others as a result of District Development Committees (DDCs) meetings and deciding to create new boundaries, thereby creating many problems. There are boundaries which cut across different districts, locations and sub-locations.

The issue of inequality has been spoken about. To me, this is the biggest problem. We have districts which pair up as constituencies when a lot of resources in this country are allocated depending on those boundaries. That point has already been made very strongly. If we want to be fair to every Kenyan, resources need to be allocated on a per capita basis in terms of the numbers of people in each location. That does not have to be political. That decision can be bureaucratic and one that is based on some form of efficiency. When you leave it to politics, it becomes irrational and you begin to see all sorts of unfairness.

Madam Temporary Deputy Speaker, we have just talked about resources, but think about the fact that when we have new districts--- The older districts have national and provincial schools, district hospitals and so on. So, when you create new districts, they begin to convert dispensaries into district hospitals. There is simply a major problem of inequality. We must realise that even as we get new districts, we are also being denied the facilities that were created for all of us when we were one larger district. That is a problem that we hardly look at.

With regard to employment, when you have new districts and you create new divisions, locations, and sub-locations, it means that those districts benefit more in terms of employment, because you have new chiefs, sub-chiefs and clerks. So, there are many jobs that are hidden that come with the creation of new districts. Therefore, I agree with hon. Members who have said that we need to redraw the boundaries on the basis of the population but also consider land mass. There are districts that require same resources as small districts just by virtue of the distances that have to be covered. Long distances can also be a problem with regard to development if infrastructure is not available. So, we should not forget that there are issues related to land size as we redraw boundaries. We should begin with constituencies. If we argue that we are going to have a district per constituency as do it as it is, then we will still be continuing with the same unfairness that we are talking about. So, let us redraw constituencies boundaries if we want to make a case, so that the new districts are equivalent to constituencies, and so that some hon. Members do not complain that by going by constituencies for districts those of us who had larger constituencies are disadvantaged. We do not want to continue raising this kind of argument.

Madam Temporary Deputy Speaker, when we redraw the boundaries and ensure that each constituency is a district, then we have to make sure that each constituency, which will be a district, has more or less the same facilities as others, in terms of district headquarters, which the Government must fund, and new schools of high quality. Each district should have two or three top schools so that we can compete equally. If we have the best schools in some constituencies or districts, then those who do not have those facilities will be disadvantaged. District hospitals should also be there and fully supported across the board and should be uniform. Police stations should also be the same. Unless, we do that, it is going to be pointless to just create districts and constituencies, where there is no equity in terms of how you distribute not only the Constituencies Development Fund (CDF), but other facilities that are required in districts. That includes employment.

Madam Temporary Deputy Speaker, as we merge the constituencies with districts, we should also merge the functions and the resources. I think it is pointless to leave the District Commissioner (DC) with so much resources that Members of Parliament do not have control over. The resources for roads and the money that goes to the DC for various functions should be put together with the money for the CDF, so that we have one kitty that has Kshs100 million instead of Kshs50 million. The DCs, other administrators and councillors can be invited to make decisions on how those resources should be spent. That way, we will get one kitty and decide how to spend it.

As it is now, there is a lot of corruption in the district headquarters. I am not saying that there is no corruption with the way the CDF money is used. There is so much corruption in the way people are recruited and the way the money available to the DCs is spent. Until we merge, these functions are still going to be a problem in terms of how much leeway the DCs are going to have and how they utilise the resources that are available.

This matter requires all over us working together and forgetting our political parties, tribal chiefs and our own ethnic communities. In the long run, we represent people and our interest should be in the people we represent more than in the people who lead our political parties or those who decide who becomes a Minister or an Assistant Minister. If we appreciate our first responsibility as Members of Parliament is our constituents, then we are likely to work more

rationally. We should not be like sheep, and just follow people as if we do not do that, we will all die. Time has come when we must rise to the occasion. The way to solve problems in this country is not for all the Kamba Members of Parliament to crowd around their tribal chief, all the Mt. Kenya people to say that they have to go behind So and So, all the Members of Parliament from Nyanza Province to say that they have to stand behind a particular person or all the Kalenjins to say that this is our man. That is backward. If Members of Parliament cannot think, then who should? If they cannot make independent decisions---

Madam Temporary Deputy Speaker, regarding matters to do with the Kriegler and the Waki reports, the people who have been mentioned, Members of Parliament should be able to speak in one voice and say enough is enough for the sake of the people that we represent and for a better future in this country. Are there not enough Members of Parliament who could be Ministers if the people who have been mentioned are removed? Are the people from Rift Valley saying that they do not have other people who are as good as those who have been mentioned? Is that what the people from Central Province are saying? If you say that, then you have no business being in this House. If you say that you are not qualified and that only a particular person can lead you irrespective of the things that they have been associated with, then you have no business being in this Parliament. I think we should stand up and tackle that and other issues for the sake of a better country.

Thank you.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I have about six reasons why I support this particular Motion; that, districts be based on constituencies. The current criteria for creating a district has been political. If you are politically connected or correct, then you can get a district. Sometime last year, just before the Ninth Parliament was dissolved, a Member of Parliament from a place called "Teso" decided that he wanted a new district, and since he was not politically correct, he decided to be temporarily politically correct. The particular Member of Parliament had the opportunity of hosting the President. You should have seen that Member of Parliament on television. He sang the tune of PNU. We knew very well which party he belonged to. By the end of the day, he was given another district. So, he has one constituency and two districts.

Another Member of Parliament, who was very politically connected - he was from Mwala in my then district, was bragging and told us that he was so well connected that the President was going to his constituency and before he left the constituency, the Member of Parliament would be having a district. That was what happened. He got a new district! To end all these, we want every constituency to be made a district, without one having to be politically correct. It is a right because a new district means better services.

Madam Temporary Deputy Speaker, another reason why we need these districts to be based on constituencies is because of the Budget. The Ministry's budgets are based on districts. There are funds also specifically meant for districts. A good example is the money for roads, which is disbursed to the District Roads Committees (DRCs). When a district with about six constituencies is given 24 per cent, the same amount as another constituency with one constituency, there is unfairness. Is there any fairness?

Madam Temporary Deputy Speaker, when I sat in the larger Machakos, where there were six constituencies under one district, it was a very bad experience. Agony is when you come from a district where there is a Minister. I came from a district where we had a very powerful Minister. So, when funds for electricity came, they were directed to that particular Minister. When the 24 per cent district funds came, they went to that particular Minister. That is why I say that, to end that culture of impunity and unfairness in the distribution of funds, let us have every constituency as a district.

Thirdly, a new district means better delivery of services. A new district comes with a district hospital. It comes with more staff. It comes with the entire range of departmental heads, district road engineers, District Officers (DOs) and OCPDs. It means that services are better delivered. When I was in the larger Machakos District, we had one district roads engineer. Imagine, one district roads engineer for six constituencies! Today, we have a district with two constituencies. Services are better. The engineer is able to deliver because it is only two constituencies. It would be better if it was one constituency, one district.

Madam Temporary Deputy Speaker, on recruitment of personnel, where I come from - from Yatta District - we have four camps of the National Youth Service (NYS). During the recruitment in the larger Machakos--- For instance, they would say that they were recruiting 50 personnel to join the National Youth Service. Could that be based on the constituency? Sometimes, because I was not politically connected, I would end up getting one or two. Imagine with four camps! But now, if it is constituency per district, we would be moving in the right direction.

One of the reasons why we should have that is because Members of Parliament sit in very many district committees. They sit in the District Roads Committees. They sit in District Development Committees. They sit in District Education Boards. They sit in CDF Project committees and many others. Imagine, a Member of Parliament having to transverse long distances to go to the district headquarters! If we have every constituency as a district, that would reduce time. Currently, we only have 69 constituencies which are districts. The balance of 141 can comfortably be made districts without much problems.

Madam Temporary Deputy Speaker, the trend today is that funds are being devolved on constituency basis. We have Constituencies Development Fund. We have money for HIV/AIDS, bursaries, Youth and Women Enterprise Development funds and many others. For better management, we need to have every constituency to be made a district.

Finally, to sum up, a lot has been said about the new Constitution. I am not waiting for one. I know the same fellows who are in Government today, starting with number one, number two, number three, number four and number five are the same people who were singing about the new Constitution. Until we have a new crop of leaders, I know there is not going to be a new Constitution. For that reason, because if we had a new Constitution, we would not be debating about this particular Motion; we should just have those constituency districts as soon as possible.

With those few remarks, I beg to support.

The Assistant Minister for Youth Affairs and Sports (Mr. Kabando wa Kabando): Thank you very much, Madam Temporary Deputy Speaker. I rise to support this Motion. It is, indeed, a very important Motion. It also represents, as a preamble, the aspirations that this country has for a new Constitution. They have aspirations towards devolution by ensuring that we go to the lowest unit of leadership to administrate our resources and manage those resources in a way that is acceptable. We should ensure that there is equity, fairness and equality.

Madam Temporary Deputy Speaker, we will accept new districts that are created, based on factors that are well considered. We should look at the constituencies, population and geographical locations. That will be fair to a lot of people.

Madam Temporary Deputy Speaker, as we speak about the new districts, we are looking at the whole arena of administration in this country. We are talking about democratic representation where, even Members of Parliament, are elected by the constituencies based on factors that are really democratic. Our representation should be propelled by the number of individuals that you represent.

As well put by my colleague, Dr. Mwiria, we need to consider geographic factors. That is because there are some constituencies that cover huge areas. They are so wide! So, as you consider population, you need to consider issues to do with the area and its coverage, for it to be

manageable. I support this Motion because it will create diversity that is acceptable to the people of this country. Districts that are based on constituencies are good. The Seconder to this Motion said that he has two districts in his constituency. Although it is a peculiar sort of a complaint, they are not very manageable. Therefore, the political engagement does not agree very well and the capability is, perhaps, challenged in terms of working.

Madam Temporary Deputy Speaker, on the issue of resource allocation, that is the bottom-line. If we entrench that proposed legislation in the new Constitution, it would ensure that we exterminate the recurring complaints that come to this House and other political platforms where people are saying that their areas are marginalised. Perhaps, it is because of historic circumstances. It is also because we have been held hostage by the old type of politics. That is because of non-performance and failure to address the prevailing issues. We sit in this House and pass the Budget. We pass the Estimates based on district allocations. We have the opportunity, for and on behalf the people of the republic of Kenya, to scrutinise every detail in the district allocations. But a day after, we go to our constituencies and other platforms and complain that we are not allocated this or that. Therefore, in order to rationalise and standardise our politics, it is important that we have a logical and methodological way of ensuring that Government services are devolved, taken to the people and based on a system that is not benevolent of any political office, be it the Executive or any other scenario, that may intimidate the creation of a district or any other institution.

Madam Temporary Deputy Speaker, I support this Motion because it will also institutionalise and provide an impetus for us, as legislators, to collectively support any endeavour that will be put before this House or any other forum, towards a new constitutional dispensation that will allow institutionalisation of our leadership from the top to the bottom; but starting from the bottom as a foundation. That would also enable this country to move from negative ethnicity that has brought so much suffering and suffocation of the potential of this great country. As we move towards the creation of the new districts, we should also consider issues to do with names and boundaries of those districts. We should remove the ethnic dispensation that is so dominant in the current districts to the extent that we have dominance of certain clans, families and groups in certain locations in this country. They seem to be owners or movers in certain districts.

Madam Temporary Deputy Speaker, as I support this Motion whole heartedly and deservedly, I also appreciate that we, as leaders, have a responsibility beyond what the Government can do. In this country, we have locations and sub-locations which exist by law. We have chiefs and assistant chiefs across the country who are operating without Administration Policemen (APs), because of what happened to this country after the December, 2007 General Election. We have administration units, namely locations and sub-locations, where insecurity is rising every hour and day because the administrators are ill-equipped. We need to redress certain factors that are in place currently and certain situations that we have created.

Therefore, in support of what Dr. Mwiria has said, the onus is on us, as Members of Parliament, to also stand on a platform of nationalism and stop the nonsense of spewing negative statements, either on the Floor of the House or outside the House, where we demonise communities and individuals when we retreat to our ethnic cocoons. We may make complaints on the Floor of the House or out of the House to excite some excitement in our constituents. A time has come for this country, lead by the Members of Parliament who are democratically elected, to be on a pedestal from which to entrench the Kenyan name and the Kenyan fame, as indeed, has been done by our sports people. This House was in unanimity when our young men and women did Kenya proud in Beijing. They have done it again in Basket Ball in Tunisia and Egypt. They have done it in other arenas. We should be at the forefront of ensuring that we entrench this.

Therefore, I support this Motion with the full consciousness that it will provide an opportunity for us to do what is good, what is needed and, in fact, what is overdue. This runs in

tandem with the campaign to have constituencies based on, more importantly, the demographic factors, and secondly, on the geographical factors. By and large, we need to appreciate that it is the demographic factors that should inform the decision in creating constituencies and districts. However, we should not be blind to the fact that there may be, and there are, special circumstances, like in North Horr and Samburu, that may require special attention when creating constituencies. In these areas communities may be nomadic, and we need to address the question of their expanse and mobility of residents.

Madam Temporary Deputy Speaker, this Motion also provides us with an opportunity to decolonise the provinces in this country. The eight provinces of this country are largely a demarcation of ethnic groups. So, a certain demographic consideration inhabits a certain part of the country. It is almost 100 per cent predicable that if you go to a certain province, you will find a particular group. In fact, we even need to rename provinces like the Rift Valley, so that it is not the Rift valley or "*Bonde la Ufa*". It should be a valley of peace. Renaming may appear simple, but it may have some meaning. It may create some reincarnation, and as hon. Chepchumba may say in her constituency and elsewhere, we need this. So, new provinces, districts, constituencies, a new Constitution, a national rebirth and a refreshing national leadership are what we need.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, I have received a notice to amend the Motion by hon. Waititu. Please move your amendment so that we can continue.

Mr. Waititu: Thank you, Madam Temporary Deputy Speaker, for giving me this chance. I rise to support this Motion and commend the hon. Kaino for moving it.

However, I beg to move that the Motion be amended as follows:-

By deleting the word "existing" in the last sentence.

So, the last line of the Motion now reads that: "This House urges the Government to create administrative districts on the basis of constituencies---".

Dr. Eseli: Madam Temporary Deputy Speaker, Sir, I rise to second that amendment. If districts are created on the basis of the existing constituencies, it will mean that if we eventually split constituencies and have more constituencies, then they will not be covered by the terms of this Motion. I support that amendment, so that we do not have an ambiguity. In future, as we create new constituencies, we will be creating new districts at the same time. We should not have a situation where we will again have to debate on whether we should get more districts or not.

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

*(Question, that the word to be
left out be left out, proposed)*

*(Question, that the word to be left
be left, put and agreed to)*

*(Question of the Motion as
amended proposed)*

The Temporary Deputy Speaker (Prof. Kamar): The new Motion does not have the word "existing". I still have chances for three more people to debate the amended Motion.

Mr. Kigen: Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Motion.

I want to congratulate the Mover of this Motion, because it is so timely. It is very important in as far as the lives of Kenyans are concerned. The creation of districts on the basis of

constituencies should have been effected a long time ago. When you look at the importance of the districts, you will find that they are units on which developmental issues are based. You will realise that resources released for development purposes have targeted on districts. You have heard hon. Members who contributed before say that in some areas where one district has more than one constituency, they are entitled to the same resources, for example, the recruitment of teachers, Military personnel and Administration police officers. They were given equal share with those constituencies which are also districts at the same time. That way, there is no fair distribution. This Motion should, therefore, address that kind of anomaly and bring about equitable distribution of resources in this country.

The imbalance in district creation in this country has had a bearing on this because some districts have so many people and they are big. Due to the population in that district, the distribution of resources is not sufficiently extended to reach all the people. It is important that the creation of districts be based on a law so that they are not created just for political expediency.

Madam Temporary Deputy Speaker, you will find that in areas where districts have been created along this arrangement, some areas which actually deserve to be given a district have been ignored so that services can be extended to the people.

I support the idea that we should create districts along constituencies that exist. If that is done, this country is likely to experience equitable distribution of resources as opposed to what is happening now. In the area I come from, we have two constituencies in one district. We get Kshs11 million allocated to the district to be used on roads and you realise that the two constituencies will share the Kshs11 million, whereas in the case where a constituency is a district, the entire Kshs11 million is allocated to that constituency alone. That is a big disparity which I believe will be addressed by harmonising the districts with constituencies.

Madam Temporary Deputy Speaker, the other day, we were supposed to recruit about 18 APs. Those vacancies had to be shared by the two constituencies. This was a disadvantage to our people. In order to alleviate this problem, this House should come up with a law to govern the creation of districts.

I also want to emphasise the fact that these resources that are given to districts can adequately serve the country and bring about peace. We fought the other day because of the manner in which resources are distributed. If everybody got a good share, no one would be fighting to say: "This or that should be in this position." It is known that those positions determine what will happen in the absence of a law. It is very important for us to have a law in place that determines how districts are created.

With those few remarks, I beg to support.

Mr. Muthama: Asante, Bi Naibu Spika wa Muda. Ningependa kuchangia Hoja hii kwa lugha ya Kiswahili ambayo ni lugha ya taifa. Juzi, baada ya Rais kuhutubia wananchi na kutoa hotuba yake kwa kimombo, kulikuwa na malalamishi kidogo aliposimama na kukosa kuzungumzia wananchi kwa Kiswahili.

Inanibidi kujikumbusha kidogo lugha yetu ya taifa. Tukianza kusema, kwanza muundo na uundaji wa wilaya na mikoa si jambo la kisiasa, bali ni haki ya Wakenya. Ni haki yao kupitia Katiba. Nia ya kuunda wilaya mpya ni kurahisisha utoaji wa huduma kwa umma. Mkoa ninakotoka unanza kutoka Mombasa mpaka Nairobi, halafu unasonga na kupakana na Bonde la Ufa na Mkoa wa Kati. Inabidi watu wa Kibwezi kuenda mpaka Embu kupata huduma kutoka Mkuu wa Mkoa. Haya ni mateso bila chuki. Kwa hivyo, tusije tukaingiza siasa kwenye jambo hili kwa sababu mara nyingi Rais wetu wametangaza kubuniwa wa wilaya na kata mpya mbele ya umati wa watu au katika matembezi yao ya siasa. Kubuniwa kwa wilaya hizo kulitokana na wananchi wenyewe kwa sababu wao ndio waliuliza. Baada ya kupata wilaya hizo, wale ambao hawakuuliza wameigeuza kuwa jambo la kisiasa. Kwa hali ya uhakika na kweli, wilaya inapoundwa, inahakikisha kuwa

wananchi wanapata huduma na haki yao.

Tunapozungumza mambo haya, tunafaa kuyatenga mbali na siasa na tuseme kwamba sio tu wilaya ambazo zimebuniwa. Wilaya yangu sasa ni mpya. Ina umri wa miaka mitatu na watu 325,000. Hivi sasa, nina wilaya ambayo ina watu 75,000 au 120,000. Huyu mkuu wa wilaya pekee anatakikana awatumikie watu wale 325,000 kadiri na kulingana na yule mtu anayewatumikia watu 175. Ili watu wetu wapate huduma bora, hii ndio sababu tumeyaweka masingizio haya katika ugawaji wa rasilmali zetu. Ni lazima haki ipatikane kwa watu walio wengi.

Jana, tumeona kwamba Wizara zinatoa makadirio yao ya hela. Ningependa makadirio yatakayowasilishwa hapa hapa yaende sambamba na huduma kwa watu wetu. Ninaona ya kwamba masafa yangu ya kutembea na mwendo wangu inaelekea kukosa nguvu ya kusimama hapa na kuzungumza kwa sababu tumezungumzia na tunapitisha Hoja hii. Baada ya kupitisha Hoja hizi zinakwama pale pale; hazitekelezwi. Kama Bunge hili ni Bunge la heshima na hapa ndio pana utungaji wa sheria ambazo tunatumia kuongoza nchi hii, tunataka jambo lolote tunalopitisha hapa litekelezwe mara moja. Tusiongee tu, kisha tukimaliza kuongea, mambo haya yanakwama pale pale. Tumekuwa wazungumzaji wazuri sana. Tunapendeza sana kwa lugha zetu. Tuna matamshi ya kupendeza sana. Mwisho wa mambo haya yote ni kitu gani kinachopatikana?

Tumeimba hapa mara nyingi wimbo wa rasilmali kugawanywa ipasavyo kulingana na jinsi nchi ilivyo. Tutayafanya mazungumzo haya mpaka lini? Wakenya wanastahili kupatiwa mikoa, wilaya, na kata.

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

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

Bi. Naibu Spika wa Muda, kwa hayo machache, ningependa kuunga mkono Hoja hii.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I would like to contribute to this Motion and commend my good friend, who is also my neighbour from Marakwet West for bringing up this Motion which seeks to make each and every constituency a district.

When the current President of this country was being inaugurated at Uhuru Park, he stated very clearly that the era of roadside Presidential instructions or directives or Executive decrees had come to an end. There is now a mad rush towards turning each and every small place into a district. This is not only happening in Kenya, but also in Uganda. It is an East African disease! There are areas that deserve to be made districts. There must be a clear-cut rationale to do so. In fact, I hope that when the Minister will be responding to this Motion, he will look into the real rationale for the creation of a district.

Mr. Temporary Deputy Speaker, Sir, more often than not, we are told about providing services to the people. When you look at which areas need more of those services than others, they are areas in northern Kenya. However, what obtains is that a place like Turkana District which is 77,000 square kilometres or Marsabit District which was 78,000 square kilometres before it was split into Chalbi and Moyale districts--- This House must represent Kenya. When you look at the combination of districts, it was double the size of Nyanza and Western provinces. Any elementary student of mathematics must have appreciated the concept of BODMAS.

When we have a district being turned into more than one province, then there must be a problem. What services are we talking about? We are talking about chronic insecurity! That is one

criterion that the Minister should mention when he responds to this Motion. I know that this is a motivation for the Member of Parliament for Marakwet West. It is also a motivation that all of us share that among the services we are talking about is to protect the people. What is the business of the Government anyway? Governments are formed for the sole purpose of protecting lives and property. So, when you find that some of the newly created districts do not capture this kind of scenario, then it means that there is a serious problem.

The Constitution provides for the creation of constituencies not only based on the population, but also community interests and geographical spread. I hope that when the Minister will respond to this Motion, he will assure us that another criteria that should form the basis for the creation of new districts is the geographical spread.

Mr. Temporary Deputy Speaker, Sir, a country that is not committed to developing its most marginalised people cannot succeed. The Western world is forming around the G8. The United Nations is looking at poverty issues because you cannot assure people of global security if you cannot assure the security of a small group of people. The arguments that have been used against the ASAL areas or the pastoralist areas is that they do not have many people. But those people are not many because the fatalities there are double the national average. So, a child from that area, before reaching the age of five years, he or she has already suffered from kwashiorkor, Marasmus, Measles and all those killer diseases. This is because there are no services there. If these districts were created in such a way that they had a District Medical Officer, District Development Officer, District Commissioner and an OCPD, then those services would be available to the people. In fact, you will be worried that our numbers will multiply a great deal.

Currently, we have almost 150 districts. We just heard this morning that there are Members of Parliament who have two districts in their constituencies. How do you attend the District Development Committee, the District Education Board and so on? It is because there was no thinking in the way we were creating these districts. That must stop.

Mr. Temporary Deputy Speaker, Sir, there are many Questions that have come to the Floor concerning new districts. Members of Parliament are complaining that the new districts do not have District Officers (DOs), District Commissioners (DCs), OCPDs and so on. Turkana Central Constituency is serving both Turkana Central District and Turkana South District. When we had a massacre at a place called Lokori, the Government could not even give the right statistics because these places are so far from them. We must make sure that there is a DC and an OCPD for the newly created districts. That is the only reason why we are looking for these districts. To multiply them when you do not have adequate resources is doing a great disservice to this country.

Members of Parliament should be honest enough. If your district is a small one, for example, Kipkelion--- It is a small district and we are happy that we have a district. There is also Bureti District which is only about 10 kilometres from Kericho Town. We should agree. The issue is not just because we are too many in number. Nairobi is now divided into many districts. I even do not know the number. This is a province which should have only DOs managing it like in the days of my good friend, the Minister of State for Defence when he was a Provincial Commissioner. He managed Rift Valley Province, as large as it is, very well.

Mr. Temporary Deputy Speaker, Sir, we want to ensure that there is also devolution of resources to the districts. The creation of districts should be commensurate to the ability and power of the local people to manage their resources. That is why we have a clamour for new districts. That takes us to the new issues of constitutional dispensation. I am afraid that the Vice-President and Minister for Home Affairs is going round the country campaigning as the next Presidential candidate. There is nothing wrong with that. The Prime Minister is saying: "This was only but a stop-gap measure. I am the guy for State House". The Minister for Justice, National Cohesion and Constitutional Affairs has already declared her interest in the Presidency. It looks like the three

important people in this country, apart from the President, already have an idea that the new constitutional order will make the Presidency as important as it is. Mr. Kriegler has warned this country that if you think that what took place after the General Election of 2007 is anything to go by, maintain the status quo and we will have no nation come 2012.

I want to urge our colleagues, as responsible Members of this House and people that Kenyans elected, people who are not encumbered with the largesse and trappings of power like those seated on that other side, it is time for the men and women of integrity to rise up and stand before this House and demand a new Constitution like yesterday. We will not be satisfied as a House that we are being told that the Constitution will be ready within 12 months. We do not know the beginning and the end of those 12 months. Is that not another promise? Is it not a failed MoU or a failed NARC dream of a new Constitution within 100 days? We cannot take Kenyans for a ride for a long time and expect them to be clapping for us always. There will reach a time when Kenyans will start questioning themselves: "Why do we have to fight in order to elect people to be Members of Parliament?" "Why do we have to pay taxes in order to have a bloated Executive?"

Mr. Temporary Deputy Speaker, Sir, these will be valid questions that we have to ask on behalf of our people before they ask us. We cannot over-emphasise the need for a new Constitution like yesterday and one that will ensure devolution, both of authority and resources, to these districts we are talking about. That will be the only way we can be assured that this country and its citizens are served properly.

While still on the districts, we should start now by ensuring that all employment opportunities are done at the district level the way teachers and military personnel are recruited.

With those remarks, I support.

The Assistant Minister for Co-operative Development and Marketing (Mrs. Kilimo): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute in support of this Motion. I also want to congratulate my brother, hon. Kaino, for coming up with this Motion.

Mr. Temporary Deputy Speaker, Sir, making every constituency to be a district will definitely improve security. For a long time, people from the pastoral communities have suffered cattle rustling which has turned into human rustling over the years. When you call the District Commissioner, he or she cannot reach the crime scene because of poor road network. However, if the District Commissioner was stationed in the district where insecurity is occurring, it would mean that he or she would be able to apprehend the culprits before loss of human life.

Mr. Temporary Deputy Speaker, Sir, we have the District Roads Committee (DRC) and the District Roads Fund (DRF) which allocate roads funds in the constituencies. Now, you find that one constituency has got more roads and that is something practical in this country. One constituency may have more roads that are classified than others and so when the sharing out of this money is done, definitely they will start with the classified roads. What happens to the other constituencies without classified roads? They will get nothing!

We talk of taking development closer to the people. Security is something that this Government said it will give to our people. They also said that they will develop our hospitals but it is amazing that people in vast regions still survive, especially given that they lack hospitals.

Mr. Temporary Deputy Speaker, Sir, my colleague from Turkana talked about low population in some areas, especially the North Rift and the northern part of Kenya. Women suffer when they are referred to district hospitals which are not there. They cannot reach there because there are no roads. If there was a District Commissioner, definitely he or she would have a vehicle and lives would be saved because they would be able to take emergency cases to hospitals. We know that in district hospitals there definitely is an ambulance and a doctor. However, there are people in this country, and during this 21st Century, who are still relying on roots for medication.

When women suffer during childbirth from too much bleeding and other complications, they die. People resort to telling women to confess sins which are non-existent. They lose their lives because there are no vehicles to take them to hospitals. The only way we can increase the population of the people from this Arid and Semi-Arid Lands (ASALs) is by taking development, especially hospitals, closer to them. This can only happen when districts are created for them.

Mr. Temporary Deputy Speaker, Sir, why is it that development takes place if a district is created for the people? It is because when we have civil servants posted to their districts, you will definitely find that such districts are located in areas which are endowed with resources and good road network. These officers want to keep in touch with the outside world and so they cannot leave their offices and go to those areas that are inaccessible and yet those areas are part of the district or constituency. So, they sit in their offices and wait for people to walk 200 or 500 kilometres to take information to them.

Mr. Temporary Deputy Speaker, Sir, in the current recruitment of teachers, you will find that if two or three constituencies share one district, the recruitment of teachers is district-based. If one constituency is on the leeway side of the mountain, it is disadvantaged. Students from my constituency, which is on the leeway side of Cherangany Hills, where they are perpetually chased from school because of school fees, are disadvantaged because when the results come out, though they graduate in the same year, they will not be the same. When they tie in marks, they will look at how they performed in particular subjects and you will find that those from poor constituencies are always locked out of employment because of their marks.

Mr. Temporary Deputy Speaker, Sir, look at the police and military recruitment---

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, hon. Kilimo. It is now 11.45 a.m. I will now call upon the Government Responder. Hon. Lesrima!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Thank you, Mr. Temporary Deputy Speaker, Sir. The long-term goal of the Kenya Government has been to deliver services efficiently with a major objective of taking services closer to the people. Various speakers have indicated that, indeed, services go closer to the people when they have districts but we also know that services go closer to the people also through the constituencies because we have a number of other resources that are directed towards them such as the Constituency Roads funds, the Constituency AIDS Committees funds and youth and women funds. I believe they are funded at the constituency level.

However, of course, there are advantages in having districts because they have budgets. Government departments such as the medical and public health department, district hospitals, the National Social Security Fund (NSSF)--- Job opportunities arise when a new district headquarter is set up. Infrastructure development and business opportunities also arise when new districts are created.

Mr. Temporary Deputy Speaker, Sir, the Government has continuously carried out an assessment to review these needs and to take appropriate measures to satisfy them. The Government has been issuing gazette notices informing the public of the intention to create new districts, to be carved from various districts following several requests made by leaders across the country. I wish to inform the House that at Independence, we had 41 legal districts in the country including Nairobi area. I say 41 because the creation of districts is a constitutional matter and, indeed, Members referred to a case where one Member took the Government to court on this matter.

We had 41 legal districts including Nairobi area which was at the time a district as well as a province. The 1992 District and Provinces Act, Act No.5, which was passed in this House in June 1992, recognised 46 districts plus one district, that is Nairobi area; totalling 47 districts. Subsequently, 24 other districts were created between 1992 and 2002 through Executive

pronouncements. Further to that, the Government has gazetted an intention to create more 78 more districts. This has brought the number of districts in the country to 149 and there is still more pressure on the Executive to create more districts. Creation of new districts is based on other criteria other than the constituencies, such as the population density and geographical and physical features, which hon. Members have alluded to in their contribution. In some constituencies, for example, Embakasi, we have 200,000 voters although it may be a small area in terms of size. There are also geographical physical features. The hon. Members have told us about the sizes of certain constituencies. For example, North Horr Constituency is 34,000 square kilometres. Laisamis Constituency is 24,000 square kilometres. They are now districts. Previously, the larger Marsabit was 69,000 square kilometres.

Mr. Temporary Deputy Speaker, Sir, another consideration is the internal harmony of the population, security demand and socio-cultural affinities. There are cases where communities do not want to be split on ethnic base. There are situations where communities want to be on their own.

Mr. Temporary Deputy Speaker, Sir, the other considerations, of course, are land size, management, consent and development. If the constituency meets the above criteria then it should be considered. All Kenyans are equal even where it is not heavily populated. The Kenyan who occupies seven square kilometres should have the right to access Government services such as security, education and so on. In fact, if I may repeat, several districts in the Arid and Semi-Arid Lands (ASALs), including Turkana, Samburu, Laikipia, Marsabit, Isiolo and all constituencies in North Eastern Province were made districts. At the moment, we have 69 constituencies which are also districts. We also have four constituencies which have two districts each. It is quite a challenge for the Members of Parliament to manage two districts. We also have some clumsy arrangement where you have a constituency with one-and-three quarters districts or a constituency with one-and-a-quarter district, in the sense that it has a division. Some of these issues will be sorted out in the current delineation exercise to determine boundaries of the districts within the District and Provinces Act 1992. I really would want to request Members of Parliament to familiarize themselves with the District and Provinces Act, of 1992 because it defines the boundaries. A copy of that Act can be obtained from the library here in Parliament. When we talk about creating new districts, we are creating new districts within the current districts, following divisional administration and constituencies boundaries or whatever the leaders may wish to pass, since the creation of districts requires a consultative process.

Mr. Temporary Deputy Speaker, Sir, the creation of districts is a constitutional matter. Let me say once this delineation exercise is completed, a Bill will be preferred to this House to amend the District and Provinces Act of 1992. As of now, already the delineation of 116 districts has been completed. This is why I must congratulate hon. Kaino for bringing this Motion. Indeed, he has brought this Motion at the right time. This is really the time to bring this Motion to the House for the Government side to act quickly on the matter.

But let me say that we also need to respect boundaries. This is because in the recent past, boundaries have been a source of conflicts, particularly among the pastoralist communities. I know that the pastoralist communities move from one district to another to look for pasture. Sometimes, they even move across international boundaries. I would urge Members of Parliament to continue to

remind our people that we do have legally recognized boundaries internationally and locally. When you want to move from one area to another, it is good to consult. It is good to have grazing committees, in the case of pastoralists, which the Provincial Administration is willing to facilitate. Indeed, in the Ministry of State for Provincial Administration and Internal Security have a

department which is responsible for peace and peace committees. Mr. Temporary Deputy Speaker, Sir, in conclusion, I want to say two things. First, it is important for hon. Members to remember that there are enormous financial implications in setting up a district in every constituency. The biggest challenge that we have at the moment is the provision of Officers Commanding Police Divisions (OCPDs). Some OCPDs are manning three districts. There is still one OCPD covering the original Turkana District which is 77,000 square kilometres. The same applies to the one covering original Samburu District covering 24,000 square kilometres and the original Marsabit District covering 69,000 square kilometres. Of course, according to the Police Act, there is a procedure for creating more OCPDs. But importantly, the costs of setting the infrastructure for the OCPD, deputy OCPD, police stations and so on, are enormous. We will require the support of this House when it comes to budgetary allocation.

Finally, as I said, this is a constitutional matter. I am not clear myself - reading the mood of the country - whether a new Constitution will come in a year's time. I urge that we engage ourselves in this process which Kenyans consider urgent rather than wait for the process of the Constitution to implement it, because there is so much pressure for the creation of districts in this country.

With those many remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Kaino, you have ten minutes to reply.

Mr. Kaino: Thank you very much, Mr. Temporary Deputy Speaker, Sir. Before I give my concluding remarks on this matter, I wish to donate three minutes to Dr. Kones.

Dr. Kones: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me also take this chance to congratulate hon. Kaino for bringing this very important Motion.

This Motion is very critical because it will affect the way we do business in the Government and distribute the national cake to the country. If it is fully implemented, it will assure us of some level of equitable distribution of resources, especially at the grassroots level. I want to agree that we really need to convert all constituencies into districts and make corrections where a constituency has two districts, so that they fit in line with what the Motion proposes. I know the passage and implementation of this Motion will have some budgetary implications. However, this is a cost we cannot run away from. If we must do things right, then we must be ready to spend.

Mr. Temporary Deputy Speaker, Sir, in creating the districts, the Government must take it as its responsibility to provide what should be the very basic for a district. The very basic in this case should constitute a district headquarters, where we will have a District Commissioner (DC) and departmental officers; a district hospital, a police division, *et cetera*. We want to have all the minimum offices that a district must have.

This will also, to an extent, fulfil the notion of devolution of resources, which was envisaged in the past, through the proposed Bomas Draft Constitution. Hon. Members have argued here that while distributing resources, the Government should use populations of the various districts as the key factor. However, that is not enough. We have to consider the sizes of the various constituencies.

We should also use the poverty index as applied in the Constituencies Development Fund (CDF) allocation. More important, we need to consider the development indices of the various constituencies, so that less developed constituencies and districts can be given more consideration when allocating resources. This is something which has never been considered in the past.

I am convinced that this House will pass this Motion right away. Once the Motion is passed, we should harmonise other devolved funds like the Local Authorities Transfer Fund (LATF) and the Fuel Levy Fund. I come from a district which has two constituencies. There is my

constituency, which is Konoin, and Bureti Constituency. The district is called Bureti. So, I have always had problems, because whenever there are issues dealing with districts, they always mainly consider people from Bureti. However, they never distinguish between Bureti District and Bureti Constituency.

The passage of this Motion will correct such anomalies, so that the name of the constituency also becomes the name of the district. Local authorities also need to be harmonised, so that they can be in line with the spirit of this Motion. A local county council can fall within one particular district only, rather than transgress across a number of districts.

Finally, I am glad to note that the Government is in support of the Motion. However, in order to ensure that the Motion is fully implemented without having to rely entirely on the goodwill of the Government, I would urge the Mover to follow it up with a Bill, so that it becomes law. That way, in future, no one will use allocation of districts as a political tool.

I beg to support the Motion.

Mr. Kaino: Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to take this opportunity to thank my colleagues who have contributed positively to this Motion. I would also like to thank the Assistant Minister who has really researched on this matter. He has come out very clearly on the number of districts that have been created, the number of constituencies that are still not districts on their own and the number of constituencies which are covered by two districts.

From what the Assistant Minister and other Members of Parliament have just said, the process of creating new districts has not been properly co-ordinated. Consequently, Kenyans are suffering. I want to thank the Minister for exhaustively researching on this issue and coming up with very good statistics. He even went as far as knowing exactly the area covered by districts that have been created in the past. He knows exactly the areas in kilometres and their geographical difficulties. When a district is created in this country, it should not only be created based on the population, but also on actual geographical facts. For example, somebody can go around Nairobi Province within three hours. However, it would take one around three days to go round Turkana South or Turkana North constituencies. You can see the problems we are undergoing.

Mr. Temporary Deputy Speaker, Sir, I believe the Minister has researched on this issue because on one hand he is disadvantaged and on the other, he is a Minister of the Government. I hope this Motion is not going to be shelved. It should be implemented and all constituencies should be made districts. My friend Mr. Outa who seconded this Motion mentioned that he has two districts in his constituency. He was actually the right person to second the Motion. There is a Bill I will bring to this House, to address the limitation of administrative districts and provide for establishment and abolishment of other districts and other concerns.

It is very important that all Kenyans be treated equally without prejudice. Let all Kenyans feel they are in a country which they are not discriminated. Let them feel that they are in Kenya where resources are distributed fairly. If I am given a district for about 15 years, I will have had all my roads done and electricity connected to every school. You can abolish the district after 15 years but all my roads and all the other infrastructure will be in place. That is the reason districts are very important.

Mr. Temporary Deputy Speaker, Sir, with regard to the Constitution review. I can compare it to a Friesian cow. Every contributor on the Floor of the House is agreeable that there is delay in the review of the Constitution. They are pointing fingers at the Front Bench opposite me. They no longer talk about Constitution review because the cow is still having milk. They want to get the cow the way it is. So they cannot talk about it. I am urging Members of this House to ignore leaders of political parties and address the concerns of wananchi. We should leave these people out of the process so that we can get a new Constitution.

His Excellency President Kibaki cannot get a third term in office. He is, therefore, the right

person to offer this country a new Constitution. If we allow our friends who are waiting to be President or Prime Minister to spearhead the Constitution review, we will never have it in place. My friend here said that something can seem to be very close to you yet it is so far away. God controls situations and He is still in control even today. We want a new Constitution!

I beg to move.

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

Resolved accordingly:-

THAT, aware that many countries are decentralising their Government structures to better respond to local needs; realising that centrally administered programmes do not always provide for effective programme delivery at the local level; aware that the Government has created a district in a number of constituencies on a one to one basis; this House urges the Government to create administrative districts on the basis of constituencies.

The Temporary Deputy Speaker (Prof. Kaloki): Next Order!

EQUITABLE DISTRIBUTION OF
DEVOLVED FUNDS

Dr. Eseli: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, aware that devolution has been implemented successfully through funds such as CDF, roads funds and youth funds; noting that there are no criteria used to determine allocation, which means that constituencies receive equal amounts of money regardless of their peculiarities such as size, population, poverty levels and HIV prevalence; cognisant that continued uniform distribution of funds perpetrates unequal development, this House urges the Government to ensure the distribution of devolved funds presently and in future takes into consideration all factors that may influence the impact of such funds in order to remedy this situation and ensure equity in the distribution of national resources.

Mr. Temporary Deputy Speaker, Sir, I am really gratified that the House has just passed the Motion brought to the Floor of the House by Mr. Kaino, because the Motion that I am moving now actually dovetails into the Motion that has just been passed by the House, in the sense that, we should do the delineation of the administrative boundaries then we look at the devolved funding of the entities that we are going to create. It is very gratifying that the House has accepted to allow Mr. Kaino to bring the Bill on delineation of those boundaries. These Motions dovetail into each other, because we have realised that there is a problem in this country. We have all been anticipating a new Constitution, but the actions at the top seem to imply that nobody is interested in a new Constitution. If eventually we do not have a new Constitution in place, we, as Parliament, will have to put things in place that will safeguard mwananchi's welfare, so that he does not continue suffering. This is one of the Motions that we intend to pass in this House, so that we safeguard mwananchi in case people continue playing games with the drafting of a new Constitution.

Mr. Temporary Deputy Speaker, Sir, the mirage of a new Constitution is real. When you look at the goings on, they are now building a new Prime Minister's and a new President's Office, yet we have not drafted a new Constitution and decided whether we are going Presidential or Parliamentary system. What has made these people decide to build those offices? That tells us that

there is something they know, which they are not telling us. We probably will not have a new Constitution.

What proves that we will not have a new Constitution again is that when we changed the Constitution at the beginning of the year, we said we would have a Prime Minister and two deputies. We entrenched that into the Constitution; then we fixed them in an accord, which will lapse at a

certain time. We shall go into elections and whoever wins the Presidency and has got the majority will again have the Prime Minister and the two deputies. That is what the situation is like. That is why they are not keen on changing the Constitution at the moment.

The Motion that I am moving today, is very important to safeguard the interests of Kenyans. While I commend the Government for its efforts to fight poverty, those efforts will come to naught unless there is a specific way in which things are done. There should be parameters used to guide the distribution of national resources. Right now, we are not using any set parameters. In fact, some decisions are more of political whims, or are coloured by tribal or nepotistic thinking, or, sometimes, the reasons behind them are unknown. For example, on the Budget Day, the Minister for Finance stood here and said that every constituency will get Kshs1 million for football. What informed that decision that the amount should be Kshs1 million? Constituencies are not of the same size, neither do they have the same number of youths. When you give them Kshs1 million, do they even have facilities for playing football? How many constituencies have stadia?

So, that seems like a political and populist whim. We cannot develop a country that way. We should have a set criteria to inform us as we make that sort of decision. When we say that we want to give funds to the youth to play football, have we looked at the population in that constituency? We need that information before we decide that we are giving them Kshs1 million each. Probably, we do not need Kshs1 million each. Some might need Kshs1 million and some might need Kshs5 million, if we are going to talk about equity.

It is surprising that during the campaigns, some of the loudest campaigners were talking about equity in the distribution of national resources. Yet, their actions do not spell equity. Their actions actually perpetrate unequal distribution of wealth in this country; unequal distribution of development. I dare say that, that unequal distribution of national resources is what is ailing this country. It is what has resulted in the anger and the rage that the youths are exhibiting in this country. Finally, it exploded after the last general elections because of that anger. They are enraged that they are not being taken care of and yet, other places are being taken care of.

For example, rural electrification has decided to borrow a leaf and use the same criteria as CDF to distribute the money for rural electrification. Now, that criteria is totally unsuitable for rural electrification because, right from the basis, some constituencies were more electrified than others. As a Member said in this House earlier on, if you are in a large district with several constituencies and your district was unfortunate enough to have a Minister, all the funds for the Rural Electrification Programme would go to the Minister's constituency. Right now, let us decide to distribute the funds almost equally across the constituencies. That means that the constituencies that are a bit more electrified than others continue to be more electrified. So, the Rural Electrification Programme then falls flat on its face because the constituencies that are behind in rural electrification remain behind. So, it is actually an example of perpetuating inequality in this country. So, we need a set criteria. Before we distribute Rural Electrification Programme funds, can we find out the level of electrification in that constituency and come up with a criteria on how to distribute those funds rather than saying: "Kshs21 million across the board for every constituency." Constituencies are not of the same size.

Further to that, we have actually continued to abuse our youth because of unequal

distribution of resources. When we say that we are giving Kshs1 million to the youths in a constituency, have we looked at their population? We have not even looked at what their exact needs are. We are just saying: "For every youth group, Kshs50,000." That is throwing money at poverty. You cannot end poverty by throwing money at poverty. The causes of poverty are different in every locality. We have to find out the cause of that poverty and go to the root cause. When you throw Kshs1 million to the youth groups and they divide it into Kshs50,000 per each youth group, many of them end up not utilising that money. Then we say that they have failed to pay. We even accuse them of being thieves and yet, they are not thieves. There are bigger thieves in this country than those youths. It is just that their capacity has not been built enough for them to utilise those funds. Yet we end up calling them thieves while I know that, in this country, we have got bigger thieves who have stolen a lot more than the Kshs50,000 that we have accused the youths of stealing.

In fact, as I said yesterday, if Kenyans stop stealing for just five years, we would be a developed country. Now, we are throwing Kshs1 million to every constituency and each youth group will get Kshs50,000. How many youths are there in every constituency? Have we based it on the population of the youth? What is their capacity to utilise those funds? Have we actually put on funding for entrepreneurship training before we give them that money? If we are going to give Kshs50,000 per youth group, how many youth groups do we have in that constituency? We are actually perpetrating inequality in this country to the extent that some constituencies are better endowed, their youths are better trained to utilise that money for entrepreneurship, while those that are not cannot utilise that money.

Mr. Temporary Deputy Speaker, Sir, even if they were able to utilise the money, the constituencies with large populations of youth are not served equitably, yet we stood up on platforms of equity as we campaigned for votes in this country. That means that we, politicians, are ending up being liars to our constituents. We cheat them, so that we can get their votes. Once we get their votes, we perpetuate the same inequality that has destroyed this country since Independence.

There are many examples. Take the District Roads Fund, which is another interesting Fund. Some funds go to the constituencies while some go to the districts. We are not looking at the sizes of these constituencies or districts and the road networks. Districts have different levels of road network, and the weather also differs. If you go to western Kenya now, you will find that all the roads were washed away about three months ago by the heavy rains. You will find that there is a very large road network in every constituency, yet we insist on giving almost the same amount of money per constituency, per district. You will find that some districts have better road networks than others. Eventually, the loser is the Member of Parliament, because the constituents will look at you as the person who has failed to repair the roads, yet the amount of money you got was not enough.

If you have a smaller constituency and you have Kshs14 million, you can do a lot more. But if you have a large constituency and a large road network and you have Kshs14 million, you cannot do anything. The devolved funds should not be looked at as "devolved poverty". We are devolving funds in such a way that essentially, we are devolving poverty. The constituencies that should actually get more money are getting less. If we come up with criteria for each devolved Fund that is actually tried and tested, especially scientific criteria, then we will achieve a certain measure of affirmative action for the marginalised areas of this country.

Mr. Temporary Deputy Speaker, Sir, indeed, there are marginalised areas in this country. We cannot hide from that. We want to create a Ministry for our marginalised areas, and we vote very little money to its coffers, yet it is very simple. If we sat down and looked at proper formulae for distributing these funds, then we would not need that kind of a thing. We have refused to use

the brains that we have in this country. I am sure the Ministry of State for Planning, National Development and Vision 2030 has enough personnel to achieve this. There is KIPPRA under the Ministry of State for Planning, National Development and Vision 2030. The Ministry should come up with criteria for each devolved fund. Since the Motion by Mr. Kaino went through, soon, if every constituency becomes a district, those devolved funds, therefore, will have to be equitably distributed. Otherwise, if the Gross Domestic Product (GDP) of an area is high, for example it is Kshs200, and the GDP of another area is Kshs50, and you do not have an affirmative action to bring the lower GDP up, then we will never have equal development in this country.

The reason why I have addressed this Motion to the Prime Minister's office is very simple. The Prime Minister is the co-ordinator and the supervisor of the Cabinet. These devolved funds come from the various Ministries. It is a cross-cutting issue. The Prime Minister should use his supervisory skills to make sure that all the Ministries that are distributing devolved funds actually use a reasonable criteria, so that we distribute these funds equitably. At the end of the day, we cannot say that we are developing a nation, if we do not have a set way of doing it. It is a concerted effort. It is not an accident. Development is not an accident. The way we are going about it in this country, with big slogans like "Vision 2030: and the "water for all by year so and so", will not work. That is sloganeering! That is not development! Development is not an accident! Development is not an accident. It is a concerted effort by a people to move in a particular direction. That effort has to be directed. The only direction we can get is proper, tried and tested criteria for distributing funds for development. If we do not do that, what happened at the end of elections last year will look like a picnic. Right now, the unequal distribution of wealth in the country is boiling just below the surface. This is our chance to correct that. We have got the knowledge, capability and the human resource to do that. I do not see what is difficult about sitting down and coming up with a criteria to distribute road funds or rural electrification funds equitably. They were using CDF criteria which is totally unsuitable. Let us take the example of the Kshs1 million which was allocated to the youths for every constituency. Is it so difficult to get the number of youths in that constituency and, therefore, know how much money they require? It is not difficult. It is because we have resorted to populist political moves that endear us to the electorate briefly for purposes of vote harvesting and at the end of it, we forget them. I think we need to come away from that thinking from now hence forth.

Mr. Temporary Deputy Speaker, Sir, I would like to end by stating that in order to remedy this situation and ensure equity in the distribution of national resources, this House resolves that any distribution of present and future devolved funds, take into consideration all factors that may influence the impact of these funds such as population structure, size, poverty index and prevalence of certain population variables per constituency. The Government should call on relevant bodies such as KIPPRA to do the necessary calculations and come up with appropriate formulae for such fund distribution.

I urge the Right hon. Prime Minister to utilise his role as the co-ordinator of the Cabinet to ensure that every Ministry that disburses devolved funds e.g. energy, youth, gender, roads, health, use reasonable and measurable variables to calculate the funds due to each constituency or district. This way, we will be able to achieve a reasonable level of equity and institute some measure of affirmative action for many of our marginalised communities.

With those few remarks, I beg to move and request Mr. Kaino, since the Motions are intertwined, to second the Motion.

Mr. Kaino: Thank you, Mr. Temporary Deputy Speaker, Sir. There are similarities in this Motion and the one that I have just moved. I thank Dr. Eseli for bringing this Motion to the House.

The real issue in all these areas is equal distribution of resources, employment and other factors. As I thank the Government for this money which is trickling down to the people, I just

want to say that this money is very important to the people. As much as the Government is trying to bring this money down to the people, it should see the priority areas where this money is required.

Dr. Eseli has just mentioned health issues. Not all areas have Malaria or waterborne diseases. Some areas have a prevalent problem of tuberculosis or other kinds of diseases. The Ministry and the Government must ensure that this money is used to address the issues at hand. For example, Garissa needs the money for improvement of roads more than Nairobi. The road network in Garissa extends to very many

kilometres while Nairobi has a few kilometres of roads. We cannot allocate the same amount of money to Nairobi and Garissa. We cannot also compare the population of western Kenya and Central Province with the population of Garissa. While the people of western Kenya require a lot of money for the youth, the people of Garissa require a lot of money for roads.

Mr. Temporary Deputy Speaker, Sir, I wish to second this Motion with the belief that the Office of the Prime Minister will analyze how they are allocating this money by finding out how much money of that Vote is required by a certain constituency or area. This will ensure that when proper analysis has been made, the correct amount is sent to the ground.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Kaino, you will have seven minutes to complete seconding the Motion. Hon. Members will have a balance of one hour and 40 minutes to contribute on the Motion. This will take place next Wednesday.

ADJOURNMENT

Hon. Members, it is now time for the interruption of business. The House is therefore, adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.