

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 23rd October 2008

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

Annual Report and Accounts of the Kenya Roads Board for the year ended 30th June, 2003, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Roads Board for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Roads Board for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Roads Board for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode) on  
behalf of the Minister for Roads)*

Annual Report and Accounts of the National Housing Corporation for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)*

*on behalf of the Minister  
for Housing)*

Annual Report and Accounts of the Kenya Medical Supplies Agency for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of National Hospital Insurance Fund for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of the Kenya Medical Training College for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of State  
for Provincial Administration and  
Internal Security (Mr. Ojode)  
on behalf of the Minister  
for Medical Services)*

Annual Report and Accounts of Maseno University for the year ended 30th June, 2001, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Jomo Kenyatta University of Agriculture and Technology for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)  
on behalf of the Minister for Higher  
Education, Science and Technology)*

Annual Report and Accounts of the National Museums of Kenya for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)  
on behalf of the Minister of State  
for National Heritage and Culture )*

Annual Report and Accounts of Kenya Tourism Development Corporation, Utalii Investments Limited, for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)  
on behalf of the Minister for Tourism)*

Annual Report and Accounts of the Kenya Marine and Fisheries Research Institute for the year ended 30th June, 2006, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)  
on behalf of the Minister for  
Fisheries Development)*

Annual Report and Accounts of the Kenya Dairy Board for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)  
on behalf of the Minister for  
Livestock Development)*

Annual Report and Accounts of the Postal Corporation of Kenya for the year ended 30th June, 2007, and the certificate thereon by the Controller and Auditor-General.

*(By the Assistant Minister, Ministry of  
State for Provincial Administration  
and Internal Security (Mr. Ojode)  
on behalf of the Minister for  
Information and Communications)*

Report of the Departmental Committee on Education, Research and Technology on the inquiry into students unrest and strikes in secondary schools.

*(By Mr. Koech)*

Report of the Departmental Committee on Agriculture, Lands and Natural Resources on the Pyrethrum Board of Kenya.

*(By Mr. Mututho)*

## NOTICES OF MOTIONS

### ADOPTION OF REPORT ON PYRETHRUM BOARD OF KENYA

**Mr. Mututho:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, this House adopts the Report of the Departmental Committee on Agriculture, Lands and Natural Resources on the Pyrethrum Board of Kenya laid on the Table on Thursday, 23rd October, 2008.

### ADOPTION OF REPORT ON COUNTRYWIDE STUDENTS UNREST IN SECONDARY SCHOOLS

**Mr. Koech:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the inquiry into students unrest and strikes in secondary schools.

**Mr. Ethuro:** On a point of order, Mr. Speaker, Sir. You made a ruling on the number of copies that should be presented. Is it possible to confirm that?

**Mr. Speaker:** Very well, Mr. Ethuro! Your concern is valid, but the Chair is satisfied that sufficient copies have been supplied. As a matter of fact, they are ready for collection, one for each Member, from Room No.8.

**QUESTIONS BY PRIVATE NOTICE****ILLEGAL APPOINTMENT OF COFFEE  
BOARD OF KENYA MEMBERS**

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

(a) Could the Minister explain why he purported to appoint members to the Coffee Board of Kenya through Gazette Notice No.9190 of 3rd October, 2008, in contravention of Section 4(a) of the Coffee Act, 2001?

(b) Could he degazette the appointments and confirm when the *bona fide* Board of Directors members will be appointed in accordance with the said legal provisions?

**The Assistant Minister for Agriculture** (Mr. Mbiuki): Mr. Speaker, Sir, I wish to seek the indulgence of the House to answer this Question next week on Tuesday afternoon.

**Mr. Speaker:** Mr. Mututho, what is your position?

**Mr. Mututho:** Mr. Speaker, Sir, this is a Ministry that decides to ignore the law *kabisa!*

*(Laughter)*

**Mr. Speaker:** Order, Mr. Mututho! Will you resume your seat? You know that the Standing Orders provide that there are two languages that you can use, namely, English or Swahili. If you choose to use any one of the two languages, on a given matter at a given moment, then you must stick to that language until you finish.

**Mr. Mututho:** Thank you, Mr. Speaker, Sir. I beg to withdraw the word "*kabisa*" and replace it with the word "completely".

This is a case where the Ministry has ignored the provisions of the Act to the extent of ignoring the Departmental Committee of this House!

**Mr. Speaker:** Order, Mr. Mututho! Do you really want to go that way? The Assistant Minister says that he has not been able to get a satisfactory answer and requires until Tuesday, next week, to answer your Question. Can you just respond to that? Are you prepared to extend that indulgence to him, or do you want to be given a half-baked answer?

**Mr. Mututho:** Mr. Speaker, Sir, I am prepared to wait until next week.

**Mr. Speaker:** Very well. The Question is deferred to Tuesday, next week, at 2.30 p.m.

*(Question deferred)*

**NUMBER OF RELIEF FOOD  
BENEFICIARIES IN TURKANA**

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

(a) Could the Minister explain why, in spite of the famine ravaging Turkana District in particular, and the entire northern Kenya in general, the number of relief food beneficiaries in Turkana Central District is being reduced?

(b) When will the Minister increase the number of relief food beneficiaries to reflect the gravity of the famine and the resultant distribution in Turkana Central District?

(c) Could the Minister table the following:

(i) food distribution agreements between WFP/GoK and the lead agencies;  
(ii) the number of food relief beneficiaries as per the final distribution points in all the districts of Kenya under the current Emergency Programme (EMOP) as well as the GoK Emergency Relief?

(d) What urgent institutional measures will the Minister put in place to increase the beneficiaries, extend the EMOP, promote sustainable food security and ensure that food is delivered efficiently, timely and in a balanced nutritional mix, and further that only the *bona fide* beneficiaries receive the food?

**Mr. Speaker:** Minister of State for Special Programmes! She does not appear to be in the House yet. We will revisit this Question a little later. I hope the Minister will be here within the next few minutes.

### ORAL ANSWERS TO QUESTIONS

#### *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 Station 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 Assistant Minister for Forestry and Wildlife** (Mr. Nanok): Mr. Speaker, Sir, I beg to reply.

(a) No, I am not aware that one Mr. Lindai Lekilia of Lodungokwe Location of Wamba Division, who was killed by a leopard sometime in 1998, and a report made to Wamba Police Station and the claim forms facilitated by the Kenya Wildlife Service (KWS) has not been compensated to date.

(b) My Ministry has, through the Kenya Wildlife Service, established that, indeed, the next of kin, a Mr. Lee Lekilia of P.O. Box 74 Wamba, has to date not collected the compensation cheque of Kshs30,000 from the District Commissioner (DC), Samburu. The KWS Senior Warden, Samburu, is making efforts to contact the next of kin to collect the compensation on behalf of the family. The hon. Member is also requested to assist and inform the next of kin of the deceased to collect his dues.

**Mr. Letimalo:** Mr. Speaker, Sir, one of the reasons why this Question was deferred yesterday, besides the Assistant Minister being absent, was because the Vice-President and Minister of Home Affairs told us that the amount of the compensation is too low. The law has been amended to provide that the compensation for death should be Kshs200,000. How come that the Assistant Minister is talking of Kshs30,000?

**Mr. Nanok:** Mr. Speaker, Sir, normally, when the Ministry pays compensation, it goes through a District Committee, which is composed of the DC, a KWS officer, the Officer Commanding Station (OCS) of the particular station, a Medical Officer of Health, the Member of Parliament of the area, the Chairman of the County Council, three members appointed by the Minister and one co-opted official. This is the committee that looks at the compensation request,

and recommends a certain amount of money to be paid by the Ministry.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. The issue is not the procedure for compensation. The issue is how the quantum is reached and if the law has been amended to enhance the figure from Kshs30,000 to Kshs200,000. That is the issue.

**Mr. Speaker:** Mr. Assistant Minister, respond to the question as asked!

**Mr. Nanok:** Mr. Speaker, Sir, that was the compensation that was recommended and approved by the District Committee.

**Mr. Mbadi:** On a point of order, Mr. Speaker, Sir. The question is not what is approved. What is the law? Is it Kshs200,000 or Kshs30,000? I think that is the question. It is very simple.

**Mr. Nanok:** Mr. Speaker, Sir, in 1998, the compensation was Kshs30,000.

**Mr. Letimalo:** On a point of order, Mr. Speaker, Sir. It is now ten years since this man was killed by a leopard. His family has not been compensated up to date. So, we can refer to the rates of 1998 when his family has not been paid compensation up to date. We are talking about what his family is supposed to be paid because the next of kin has not even been paid.

**Mr. Speaker:** Order, Mr. Letimalo! That is not a point of order. You are challenging the answer given by the Assistant Minister. The point at which you have done so is not the right one. So, you are out of order. The Assistant Minister will not respond.

**Mr. Ethuro:** Mr. Speaker, Sir, this is actually a very simple Question. Samburu hosts the best wildlife sanctuaries in this nation and somebody has been killed by one of these animals. The death took place in 1998. By that time, they would have been compensated at the lower quantum. Since then, the law has been amended to enhance the quantum. When will he pay the family of the deceased the higher figure as per the law now and not then?

**Mr. Nanok:** Mr. Speaker, Sir, that amount had been approved before the current law that is in place was implemented.

**Mr. Speaker:** Leader of Government Business, the Assistant Minister needs some help to answer that Question. He has not quite answered it. Since you are cited as having made some position known---

*(Laughter)*

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Speaker, Sir, would I be in order to suggest that we hold consultations because according to the law ten years ago, the compensation payable was a maximum of Kshs30,000? The law has since been amended. Since this particular beneficiary was not paid ten years ago, I think there is a valid case of looking at this matter!

**Mr. Speaker:** Very well! That rests the matter.

**Mr. Letimalo:** Mr. Speaker, Sir, I want to thank the Vice-President and Minister for Home Affairs and I think we will go by his advice.

**Mr. Speaker:** Very well.

Next Question, Mr. Mwaita!

*Question No.407*

MEASURES TO ADDRESS EFFECTS  
OF MATHENGE WEED

**Mr. Speaker:** Mr. Mwaita not here? The Question is dropped!

*(Question dropped)*

*Question No.183*

SWINDLING OF THE PUBLIC  
BY LOTTERY FIRMS

**Mr. Nguyai** asked the Vice-President and Minister for Home Affairs:-

- (a) whether he is aware that lottery firms in the country are swindling the public of massive amounts of money;
- (b) whether he could table the balance sheet of all the licensed lottery firms for the last three years, and;
- (c) what measures the Government has instituted to enhance regulation of the sector and to protect the public from unscrupulous lottery firms.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that lottery firms in the country are swindling the people of money. Lotteries are authorized, controlled and regulated by the Betting Control and Licensing Board under Section 36(1) of the Betting Lotteries and Gaming Act, Cap.131, Laws of Kenya.

The lotteries are authorised to raise funds for, among others, social services, public welfare, relief of distress, patriotic purposes and recreational and sporting facilities.

The Board is also mandated to ensure that all monies raised through lotteries are devoted to the object for which they were meant and that members of the public are protected against fraud.

(b) The licensed lottery firms are Kenya Charity Sweepstake, First Lotto Limited and Anselia Holdings Limited. Anselia Holdings Limited operated for only nine months up to 28th February, 2007. I hereby table their balance sheets for last three years.

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

(c) The licensing and control of lotteries is governed by the Betting, Lotteries and Gaming Act. That empowers the Betting, Lotteries and Licensing Board to impose such conditions as it may deem necessary to ensure that lotteries are promoted and conducted as efficiently as possible in the interest and for the purposes they were established and of the public in general.

Pursuant to this, the Board has come up with a number of requirements which all lottery operators must adhere to. These include the following:-

- (a) Submission of returns by all lottery operators indicating, among others, the following:-
  - (i) Number of tickets printed.
  - (ii) Number of tickets sold.
  - (iii) Cost of each ticket to the public.
  - (iv) Amount of money collected.
  - (v) Amount of money devoted to good causes.
  - (vi) Total amount of money won as prizes.
  - (vii) Names of all winners and the amount won.
  - (viii) Names of all the beneficiaries and the amounts received by each.
- (b) Presiding and supervising all lottery draws by Board officers.
- (c) Ensuring publication of all draw results in the media.

- (d) Conducting lottery draws in public.
- (e) Witnessing by Board officials the award of prizes won in lotteries.
- (f) For lotteries with a jackpot, if the accumulated amount is not won within a certain period, the same will be cascaded to lower level winners.

**Mr. Nguyai:** Mr. Speaker, Sir, I would like to thank the Vice-President and

Minister for Home Affairs for a comprehensive answer. Unfortunately, I have not seen that balance sheet. I have some supplementary information that indicates the total turnover. I just want a clarification on what formula is used to ensure that the required percentage that is meant to go to goodwill causes goes there. In the same context, how much---

**Mr. Speaker:** Order, Mr. Nguyai! The Chair has ruled often that you are allowed to ask one question at a time. You have asked one question. Mr. Vice-President and Minister for Home Affairs, could you reply?

**Mr. Nguyai:** Most obliged.

**Mr. Musyoka:** Mr. Speaker, Sir, I am not aware of any standard rule. I think the three lottery firms sometimes use the rule of the thumb. They might even receive presentations from members of public including Members of Parliament on some of the causes that they can fund, giving the example of Kenya Charity Sweepstake. There is no one rule that is supposed to regulate what amount should go to charity and what amount should be retained as part of the balance sheet by way of profits.

**Mr. Nguyai:** Mr. Speaker, Sir, if I am correct, what he is indicating is that the lottery firms have a right to disburse as little as Kshs1 to goodwill causes. How do you ensure that, since they are in existence, and in law, 25 per cent of the total turnover goes to good causes? Is he telling us that he does not regulate, supervise and make sure that these lottery firms are contributing to good causes?

**Mr. Musyoka:** Mr. Speaker, Sir, it may interest the hon. Member to know that this Minister intends to actually do an overhaul of this department because it is possible to convert this country to the Las Vegas of Africa. In the last two years, the money that the Kenya Charity Sweepstake was able to give as good cause money was Kshs87,277,406. About the same time, before they stopped operations, the First Lotto Limited gave Kshs13,404,000. This goes to show that if the Government puts its act together through this department, we can raise a lot of money for instance to support, through sporting lottery, our football teams and other causes. We intend to go to great lengths to revitalise this department.

**Mr. Speaker:** Very well! Next Question, Mr. Affey!

*Question No.374*

NUMBER OF P1 TEACHERS IN  
NORTH EASTERN PROVINCE

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

- (a) whether he could provide the number of persons from North Eastern Province trained as P1 teachers over the last three years and indicate the number subsequently absorbed by the Teachers Service Commission (TSC), and;
- (b) whether he could also table the list of trained teachers per district during the said period.



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

(a) The number of persons from North Eastern Province trained as P1 teachers over the last three years is as follows:-

**YEAR NO. TRAINED**

2005	86
2006	81
2007	93

The number of P1 teachers from North Eastern Province who have been employed by the TSC in the last three years is as follows:-

<b>District</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Garissa	18	13	18
Ijara	15	11	7
Mandera	36	36	51
Wajir	<u>30</u>	<u>24</u>	<u>22</u>
Total	99	84	98

That gives a total of 99 for 2005; 84 for 2006 and 98 for 2007. The grand total is 281.

(b) The hon. Member wants me to table a list for the whole country. I hereby table the list.

*(Prof. Olweny laid the document  
on the Table)*

The hon. Member also wants me to read the figures as per district. It is a long document and it will take too long. If the Chair may wish, I can only read the data for the provinces.

**Mr. Speaker:** Order, Mr. Assistant Minister! I do not see any part of "b" which requires you to read the names!

**Mr. Affey:** Mr. Speaker, Sir, I want to thank the Assistant Minister for giving us a very depressing answer. I asked this Question because I know that a huge number of young people from the province who want to join the teacher-training colleges have not had any opportunities in the last three years to join the colleges as they wished. If you look at the list which the Assistant Minister tabled of all the provinces, in 2007, only 93 teachers were trained from North Eastern Province out of 8,096. What criteria is used to ask students to join these institutions and why is there such a huge disparity?

**Prof. Olweny:** Mr. Speaker, Sir, these are based on district quotas. There is a formula that we use for calculating district quotas which is tied to the national lid, the establishments nationally within that district, district needs and shortages. That is what is taken into consideration. So, if a district has a given requirement and we can only afford a given number nationally, then it is shared out based on that formula. That is how we ended up with that number. Other districts had higher numbers because they have higher requirements, bigger shortages and things like that.

**Mr. Abdirahman:** Mr. Speaker, Sir, I do not think that the Assistant Minister has answered the Question that he was asked. He was asked to tell us the criteria and he has just mentioned one based on the quota system, which the Ministry has almost done away with even in the admission of students to secondary schools these days. But let me come to my main question. We have not been able to address our staffing shortage because of the requirement that says that any student who wants to go to a teaching college for a P1 certificate must attain a certain grade which he did not mention. That is where we have a problem. Could he tell us how many such students qualified from that province based on the grade which is fixed nationally?

**Prof. Olweny:** Mr. Speaker, Sir, I do not know the number of people who have Grade C Plain in that province yet. It is for them to tell us who qualified. Further, if the hon. Member wants to know the formula, I can read it. I wish I had a blackboard here in the House! But I can read it!

**Mr. Speaker:** Read the formula, Mr. Assistant Minister!

**Prof. Olweny:** Mr. Speaker, Sir, the formula is: The number of approved teachers establishments plus teacher needs, divide by the national teacher establishments plus teacher needs of that district, multiply by the total vacancies in the college. The colleges that we have are only 19 in this country. We can accommodate only up to 8,500 trainees. So, if you can memorise that formula, well and good for you!

**Mr. Speaker:** Very well, Mr. Assistant Minister! You have done your bit!

**Mr. C. Kilonzo:** Mr. Speaker, Sir, indeed, it is good that he has given us the formula. Some parts of this country have trained enough teachers while others, particularly, most parts of Eastern and North Eastern Provinces of this country, have less trained teachers. Could he revise the formula to ensure that he does not take into account the number of vacancies in colleges for these areas? Those areas need affirmative action. What will he do to ensure that there is affirmative action to train more teachers?

**Prof. Olweny:** Mr. Speaker, Sir, if a particular area has a very low need for teachers, it will, of course, get very few vacancies. But may I tell the hon. Member that there is no part of this country that has trained enough teachers, if you look at it district-wise. You may have a few schools that are over-staffed, but within that district you will still have some schools that are under-staffed. But then, in that case, there will be re-distribution.

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

**Mr. Speaker:** That Question is done! Yes, Mr. Olago!

**Mr. Olago:** Mr. Speaker, Sir, this Question raises very serious issues not just for North Eastern Province, but for the whole nation. In Kisumu District, there are about 600 trained teachers who have not been absorbed. In the circumstances, what steps is the Ministry taking to ensure that all trained teachers, in view of the shortage of teachers, are absorbed?

**Prof. Olweny:** Mr. Speaker, Sir, I hope that the hon. Member was here when the Vote of the Ministry of Education was being approved by the House. The money that this House approves for the Ministry is the same money we use to employ teachers. We cannot employ more than the resources allow us to. So, the number of teachers that we have employed is based on the amount of money the Exchequer gives to the Ministry.

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

**Mr. Affey:** Mr. Speaker, Sir, given that at the moment we have a shortage of 800 teachers in the province and the number trained together with the number absorbed is under 100, could he, therefore, consider - in order to allow more students from the region to access these colleges - lowering the minimum of Grade C, so that we have many more people accessing these colleges?

**Prof. Olweny:** Mr. Speaker, Sir, that is an issue which I cannot give an answer to in the House now. It touches on a lot. We need to have well qualified people to be trained as teachers. We will not take failures and train them as teachers!

**Mr. Speaker:** Very well! Yes, let us go back to Mr. Ethuro's Question by Private Notice!

*(Resumption of Question by Private Notice)*

#### QUESTION BY PRIVATE NOTICE

NUMBER OF RELIEF FOOD  
BENEFICIARIES IN TURKANA

**Mr. Ethuro:** Mr. Speaker, Sir, for the second time, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

(a) Could the Minister explain why, in spite of the famine ravaging Turkana District in particular and the entire northern Kenya in general, the number of relief food beneficiaries in Turkana Central District is being reduced?

(b) When will the Minister increase the number of relief food beneficiaries to reflect the gravity of the famine and the resultant distribution in Turkana Central District?

(c) Could the Minister table the following:

(i) Food distribution agreements between WFP/GoK and the lead agencies;

(ii) The number of food relief beneficiaries as per the final distribution points in all the districts of Kenya under the current Emergency Programme (EMOP) as well as the GoK Emergency Relief?

(d) What urgent institutional measures will the Minister put in place to increase the beneficiaries, extend the EMOP, promote sustainable food security and ensure that food is delivered efficiently, timely and in a balanced nutritional mix, and further that only the *bona fide* beneficiaries receive the food?

**The Minister of State for Special Programmes (Dr. Shaban):** Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the number of beneficiaries---

**Mr. Speaker:** Order, Madam Minister! You cannot start answering the Question without offering an explanation to the House as to why you were late!

**The Minister of State for Special Programmes (Dr. Shaban):** I am sorry, Mr. Speaker, Sir. I was held up in a meeting.

However, I beg to reply.

(a) I am not aware that the number of beneficiaries of relief food in Turkana area has been reduced. What I know is that it has been increased.

(b) Due to food shortages in the larger Turkana area, my Ministry has scaled up its relief programme to this area. The beneficiaries in February were 160,000, but we have scaled them up to 225,000. In addition, we are also giving relief food to 15,000 beneficiaries - children and lactating mothers who are on supplementary diet and also 78,000 primary school pupils on the School Feeding Programme. A total of 328,000 persons are on the EMOP Programme and we also have the general food distribution by the Government. The total amount of food distributed to the area through EMOP is 3,175 metric tonnes valued at Kshs208,692,750, that is, approximately Kshs209 million monthly. Besides that, my Ministry has distributed to the area assorted food valued at Kshs55.6 million from July to September. The current October food allocation to each of the three districts is 2,000, 90-kilogrammes bags of maize, 600, 90-kilogrammes bags of beans and 600, 50-kilogrammes bags of rice; all valued at Kshs28.9 million.

(c) The World Food Programme has entered into an agreement with the lead agencies in all the 17 districts currently under the EMOP. I wish to table the lists.

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

(d) Besides the efforts being made by other Ministries such as the Ministry of Agriculture and the Ministry of Development of Northern Kenya Development and other Arid Lands in areas

of food security, my Ministry is boosting the strategic grain reserves from the current four million bags this financial year to eight million bags in the year 2009/2010. The Government has also imported maize to cover up any shortfall.

**Mr. Ethuro:** Mr. Speaker, Sir, I would like to thank the Minister for answering the Question. But, as you know, this Question was deferred because we could not agree on figures and what the import of the Question was all about. The Minister says in part "a" of the Question that she is not aware that the number of beneficiaries has been reduced. I demonstrated to the House that in the three distributions in the months of March, June and September, the figures, particularly between June and September, have been reduced. As we are speak now, the agency distributing food is going round the distribution points asking communities to reduce their numbers. So, I really find it very difficult to continue from there.

Mr. Speaker, Sir, in addition to that issue--- That is because there is a fundamental issue with this Question. I do not know why the Minister is agitated. That is why I am trying not to make things any worse!

*(Applause)*

**Mr. Speaker:** The Minister has a reason to be agitated! What the Minister is expecting from you is a supplementary question arising from the answer she has given. But, instead, you have taken on a course where you seem to be debating or supplying information to the Minister, which she may very well have! So, could you quickly come to your question?

**Mr. Ethuro:** Thank you, Mr. Speaker, Sir. My question number one is---

**Mr. Speaker:** It has to be one! It cannot be more than that!

*(Laughter)*

**Mr. Ethuro:** Mr. Speaker, Sir, could the Minister confirm whether the number of 225,220 beneficiaries as it is, currently, is based on the wrong population of 435,387 as opposed to the current obtaining population in the greater Turkana of 631,000? I want the Minister just to be sure that even in 1990, the---

**Mr. Speaker:** Order! You have asked your question; that the Minister has a figure which is based on a wrong figure of the population. Let the Minister respond!

**Dr. Shaban:** Thank you, Mr. Speaker, Sir. Unfortunately, we usually work on the figures as per the official census. As per the official census, the figure could be the 435,387 that he is complaining about. Right now, it is true that, in the extrapolated figures, they are saying that the figure is 600,000. That is why we felt there was a need to give a supplementary diet to the lactating mothers and the children, who have special needs. We also felt there was a need for the general food distribution to be increased by the Government. So, in addition to the 378,000 people who were actually covered in the EMOP Programme, there is an extra number of people who were covered under the general food distribution programme.

**Mr. Abdirahman:** Mr. Speaker, Sir, I am surprised to hear the Minister say that food has not been reduced in those areas, including Turkana. I want to confirm - because I just came back from there yesterday - that food has been reduced in Wajir South District. But, ordinarily, food is reduced or scaled down based on national monitoring by the Office of the President, together with the World Food Programme (WFP) and other agencies that distribute food. Madam Minister, when was that done, and in consultation with who?

**Dr. Shaban:** Mr. Speaker, Sir, I am surprised that people are talking about scaling down. From 160,000 to 225,000 beneficiaries means that there is an increment of over 60,000 people! So,

I am really surprised when I am told that we have scaled down the distribution of food! We have not scaled down. That is a figure that we are working on and we are still adding the money to increase the general food distribution. So, that "scaling down" is something that is new to me!

**Mr. C. Kilonzo:** Madam Speaker, as we talk about the---

*(Loud consultations)*

*(Laughter)*

Mr. Speaker, Sir, we are talking about food being reduced in Turkana. But from the list laid on the Table by the Minister, from Ukambani, it is only Kitui and Mwingi districts. In Makueni, Machakos, Yatta and Mbooni districts, there is no relief food. What are you doing to ensure that those areas get relief food?

**Dr. Shaban:** Mr. Speaker, Sir, I think we might have a seminar to sensitise people on the areas covered by EMOP. That is because the areas covered by the emergency programme are different from the other areas which are covered under the general food distribution programme.

Mr. Speaker, Sir, I just want to refer to the other areas which are covered in Ukambani. We have Kyuso, Yatta District, Makueni, Kibwezi, Mutomo, Mwingi, Kitui, Mbooni, Mwala, Nzawi in Machakos and Kangundo. All those areas are covered under that other programme.

*(Applause)*

**Mr. Ruto:** Mr. Speaker, Sir, initially, when I rose on a point of order, I heard the Minister say that she was late because she was in a meeting. I do not know whether that is the way it should be - whether we treat National Assembly issues as secondary.

But, nevertheless, Mr. Speaker, Sir, I want to concur with her that she is working very hard to make sure that the number of districts that require emergency support are increased. As we speak today, they have taken away all the maize that was in the National Cereals and Produce Board (NCPB) stores in Bomet. So, the people are now almost starving. I think, maybe, she is trying to increase the number in her list of the districts that require emergency food. But I do not think this is what we should be aiming at!

Mr. Speaker, Sir, could she tell us why there is no food even in the NCPB depot, where people can be able to purchase?

**Mr. Speaker:** Order, Mr. Ruto! You have already asked your question!

**Dr. Shaban:** Mr. Speaker, Sir, it is normal practice that we move food from different NCPB depots to other areas, where they need food. Even the food in Bomet will be replenished with food from Nairobi. That is a normal practice and it should not scare anybody. It is just normal for us to do that. It is easier to get food, for example, from Kitui, if we have to move it to Garissa. We take it from a nearer place than bring it all the way from Nairobi. Then, we can move the food in Nairobi to those areas.

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

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to take the matter so lightly? There is no food in the Bomet stores right now! The people are buying a bag of maize at Kshs3,600! How can she say that they are moving food from a surplus area to another area that, probably, has a deficit, when Bomet is now a deficit area in terms of food? She is telling us that, that is normal! Is it in order?

**Mr. Speaker:** Order! Order, Mr. Ruto! That is a matter of argument! You cannot challenge the Minister on that manner! She has given one position; you are giving a different position. But you are offering nothing to show that, either you or the Minister, is right. So, that is not a valid point of order!

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. We are dealing with a very serious issue. I come from Yatta where there is no relief food. I have gone through the document which the Minister has read out here. It says, on a percentage basis, that the food needs in the districts that she has mentioned is zero. It further says that there are no interventions by the Government.

Mr. Speaker, Sir, we all know what is happening in Makueni and other areas like Yatta. Could the Minister come out very clearly. There is no relief food on the ground!

**Mr. Speaker:** That, again, is not a point of order! You have not indicated to what extent the Minister is out of order! According to the rules, I do not see, from all that you have said, what rules the Minister is in breach of. So, that, therefore, is out of order!

Last question, Mr. Ethuro!

**Mr. Ethuro:** Mr. Speaker, Sir, I think the Chair has a responsibility, according to the Standing Orders, to ensure the accuracy of the information provided to this House.

**Mr. Speaker:** Order, Mr. Ethuro! The Chair has the responsibility to ensure that the Business of the House is presided over fairly! It is the duty of the hon. Members to seek clarification from the Ministers! It is not the duty of the Chair!

Proceed!

**Mr. Ethuro:** Mr. Speaker, Sir, I thank you for clarifying that one. I am sure you know that once we seek clarity, the Chair will enforce the clarity. Having said that, I am asking for your indulgence. The people of Turkana are starving to death. It is all over in the Press. Every person in this country knows. We cannot allow the Minister to get off on this one!

Her own admission is that they are using the wrong figure of 435,000 people, but their projection gives over 600,000 people. The next population census will be done in 2009. The last census was done in 1999. Even then, the population was 450,000, which is higher than the population they are using now. The population growth rate is 2.2 per cent, which is the rate the Kenya National Bureau of Statistics (KNBS) uses to determine the present population all over the country. That is not my estimation. It is the standard practice until we establish the new stuff. I do not want to put the Minister into trouble. However, if I may quote a copy of the HANSARD of last Tuesday, she said as follows:-

"I was in Turkana, and I observed what was there. I made a note that we are going to increase the amount of food from this month. That one is being worked on by my Ministry."

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

**Mr. Ethuro:** Mr. Speaker, Sir, has the Ministry completed its work on the increased or enhanced number of beneficiaries and food rations? If not yet, why?

**Dr. Shaban:** Mr. Speaker, Sir, they are going on. We got a report from the District Steering Group (DSG), and we have scaled up. I want to be very clear on this one. The EMOP programme covers only 17 districts in our country. The rest are covered under general food distribution. In Turkana Central District, we are scaling up through the general food distribution. This month alone, we are releasing 6,000 bags of maize to Turkana. We used to release only 3,000 bags, but we have now doubled it. We will also release some rice and beans for them to be able to add the numbers of the persons who are in dire need of food.

**Mr. Speaker:** Madam Minister, there are issues here which appear to be grey. Perhaps, you will help the House and the country to understand them. If you look at page two of the document you have tabled, relating to districts, we have column one, which provides for district; column two,

division; column three, population; column four, percentage need, and column five, food aid. On page two, if you go to the second, third and fourth boxes, all of them, say "no intervention". Does that mean that the Government is doing nothing at all to provide food to people who may be starving to death?

**Dr. Shaban:** Mr. Speaker, Sir, I would like to repeat that we have two ways of distributing food. We, as Government, are in partnership with the World Food Programme (WFP) to implement the EMOP programme. The areas which will be receiving food under the EMOP programme are covered under the programme. On top of that, we have the general food distribution. That is where the Government comes in with the extra food that it gives to those areas. So, there are two ways of distributing food.

**Mr. Abdirahman:** Mr. Speaker, Sir, the status of Turkana is known all over the country and all over the world. General food distribution and EMOP are all one and the same thing. It is not a twin intervention story. Just to add a little more on that, the Ministry's food supplies do not even leave

the stores, because they cannot be transported. So, if the Government was to intervene in that situation by improving on what is being done by EMOP, then they should have gone ahead to provide a comprehensive plan that does not tell us that they are increasing the number of maize bags they distribute from 3,000 to 6,000. Mr. Speaker, Sir, is the Minister in order to tell us that they are addressing the problem in Turkana just by adding 3,000 bags of maize, which do not even leave the stores?

**Dr. Shaban:** Mr. Speaker, Sir, I did not know that Mr. Abdirahman has become an expert on how we do our work in the Ministry but, considering that he insists on the EMOP programme and the general food distribution, there is need for me to sit down with Members of Parliament from arid areas, so that we can tell them how this thing is done.

Mr. Speaker, Sir, it is difficult for me to answer all the questions. When I attempted to give so many details last week, after being asked for details, I was told I was talking too much. Therefore, today, I have tried to contain my details within the time that has been allocated. So, hon. Members are free to pay my Ministry a visit, so that I can give them more insights into this and then we can discuss the matter when I have a team of my officers with me.

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

**Mr. Speaker:** Order, hon. Members! Madam Minister, we will let the matter rest there - but those instances, where you have recorded in the documents tabled "no intervention", meaning no intervention on the part of the Government, you will check to ascertain that where there is need, the Government will immediately intervene.

That is how the matter will rest, Madam Minister! Therefore, it leaves you with a responsibility!

**An hon. Member:** Yes!

*(Resumption of Oral Answers  
to Questions)*

## ORAL ANSWERS TO QUESTIONS

*Question No.390*

CHANNELLING OF SALARIES  
TO TEACHERS' ACCOUNTS

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

(a) whether he is aware that all teachers in the country are deducted Kshs50 by National Bank of Kenya (NBK) to have their salaries credited to their respective bank accounts;

(b) given the total number of teachers in the country, how much money the deductions amount to per year; and,

(c) what steps the Minister will take to ensure that teachers' salaries are channelled directly to their individual accounts to avoid the said deductions.

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

(a) I am aware that all teachers in the country are deducted Kshs50 by NBK to have their salaries credited to their respective bank accounts. These are fees charged for transmitting teachers' salaries centrally to all banks and SACCOS where teachers maintain accounts using the electronic funds transfer.

(b) For the year ended 30th June, 2008, the amount of deductions totalled to Kshs138,973,400.

(c) The NBK, are the bankers for Teachers Service Commission. Any cheque given out to any other bank will have to be cleared by the NBK, through the Clearing House prior to funds being credited to the teachers' accounts.

This, inevitably, results in delays. The efficiency attained by electronic funds transfer, and the fact that the NBK only clears one cheque, enables the Commission to pay teachers at once and quickly. However, the Ministry is studying new arrangements to channel teachers salaries to their accounts at a reduced cost.

Thank you, Mr. Speaker, Sir.

**Mr. Mbau:** Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer. He does agree that, indeed, there are delays occasioned by teachers, first of all, being paid through NBK before their salaries could go to their respective banks. He also does agree that this is paid as one cheque. According to the answer, this one cheque accrues to Kshs138,973,400 for a period of one year. Is he telling us that by paying through NBK, 12 cheques in one year, the deductions for clearing those 12 cheques amount to Kshs138,973,400? Is the Minister not able to see that this is a colossal amount of money which would have benefitted teachers, who always say that their salaries are low?

**Mr. Mwatela:** Mr. Speaker, Sir, I want to agree with the Member that Kshs138 million for transaction of teachers' salaries is a colossal amount. That is why my Ministry is looking at the possibility of that figure being reduced.

**Mr. Njuguna:** Mr. Speaker, Sir, aware that our teachers are crying as a result of low salaries and the banks are charging a lot of money to credit their salaries to the their accounts, could the Assistant Minister, in liaison with the banks, think of reducing this huge deduction of Kshs50 to Kshs20? The difference would be an incentive to teachers who are crying right now.

**Mr. Mwatela:** Mr. Speaker, Sir, I think the charges should be reduced to less than Kshs20 per teacher.

**Mr. Speaker:** Last question, Mr. Mbau! **Mr. Mbau:** Mr. Speaker, Sir, could the Assistant Minister tell this House when this new arrangement will come into effect so that these huge deductions, through unnecessary bank charges, come to an end once and for all?

**Mr. Mwatela:** Mr. Speaker, Sir, there is a possibility that there are some contractual arrangements between the Teachers Service Commission (TSC) and the National Bank of Kenya



(NBK). I am determined to ensure that we do this as quickly as possible. It should not be later than three months from now in the event that we are not going to go against any contractual arrangements.

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

*Question No.365*

CONSTRUCTION OF POLICE  
STATIONS/POSTS IN SABOTI

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

(a) whether he could confirm that in spite of the Government setting aside funds for construction of Police Stations and Posts in areas affected by the recent post-election violence, Kiminini and Saboti Police Stations as well as Gituamba and Kalaha Police Posts in Saboti Constituency have not been constructed in Saboti Constituency to date;

(b) whether he could also confirm when the said police stations and police posts will be constructed so as to ensure the security of the former IDPs who have since returned to their farms in these areas; and,

(c) whether he could further confirm the number of police stations and posts constructed so far subsequent to the post-election violence, and indicate the locations of each of them.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Kiminini and Saboti Police Stations have not been constructed. However, funds were allocated for 32 police posts. Already 30 of them have been completed. Kiminini, Saboti, Gituamba and Kalaha Police Posts were not among them.

(b) During the current financial year, funds for development of police housing and office accommodation have been allocated for specific police stations. Consequently, my Ministry will request for more funding from the Treasury to construct the four stations among others in the coming financial year. Meanwhile, the security for Internally Displaced Persons (IDPs) will be catered for by respective District Security Committees (DSCs).

(c) During the post-election violence, the Rift Valley Province was highly affected and 32 police facilities were earmarked for construction at strategic locations. Thirty of these facilities are complete and the three remaining are almost complete.

Mr. Speaker, Sir, the 32 facilities are as follows: Geta, Matisi, Kabolet, Kiamumbi, Kiambaa, Kesses, Rurigi, Ng'arua, Kondoo Farm, Baharini, Mugumoini, Makutano, Tamiota, Kiplatit, Ndeffo, Kipkaren, Kilibuoni, Kapkimolwa, Kapsoya, Mauche, Ziwa, Masaiden, Mlango Tatu, Duka Moja, Olasit, Chebunyo, Musinga, Karuna, Nyangacho, Sinendet, Chepsilat, Sendiret and Fort Ternan.

**Mr. Wamalwa:** Mr. Speaker, Sir, the Assistant Minister has indicated that the 32 police stations were constructed in strategic locations. However, Gituamba was the first farm to be attacked during the post-election violence in Saboti Constituency. Kalau Farm which neighbours Gituamba was attacked on the 16th January after Gituamba was attacked on 1st January. Entire villages were razed down and the indication from the Government was that they would construct police stations in areas affected by the violence.

In Trans Nzoia West District, Gituamba and Kalau were the two farms affected by this

violence. Is the Assistant Minister saying that these two farms were not strategic enough for the Government to include them in the list of 32 police stations?

**Mr. Ojode:** Mr. Speaker, Sir, when we agreed that we were going to construct these police stations and police posts, the leaders of the area, together with the security team, sat down and agreed on priority areas. We said that we were going to construct the police posts according to the priorities given to the Ministry. All is not lost. The areas which are not having any construction of facilities are going to be catered for in terms of constructing Administration Police camps. So, we are still going to provide security in those areas as we look for funds. As at now, we have exhausted what we had for construction purposes.

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

**Mr. Wamalwa:** Mr. Speaker, Sir, the next financial year is too long for us to wait. We are talking about the security of people. It is not the first time that the people of Gituamba and Kalau have been attacked. They were attacked in 1992 during tribal clashes. People were killed and property lost. They were attacked again in 1997. What will the Government do in the meantime? Are there any temporary arrangements that will be put in place before the financial year when the construction is done?

**Mr. Ojode:** Mr Speaker, Sir, I have mentioned here that we will put up Administration Police camps as a temporary measure while we wait for funds to construct the facilities.

*(Mr. Washiali stood in his place)*

**Mr. Speaker:** Mr. Washiali, I note that you are interested in this matter but you stood too late after the questioner had stood ahead of you. If you want to catch the Speaker's eye, the earliest bird catches the worm! That is the way to proceed!

Next Question by Mr. Nyamai!

*(Mr. Nyamai moved to the Dispatch Box)*

Mr. Nyamai, you have a microphone where you are coming from! All these microphones are serviceable!

Please, proceed!

*Question No.432*

#### ABSENCE OF BOARD AT KEMSA

**Mr. Nyamai** asked the Minister for Medical Services:-

(a) whether he is aware that the Kenya Medical Services Agency (KEMSA) is unable to operate because there is no Board to approve such important resolutions as change of bank signatories,

(b) what urgent steps the Minister is putting in place to ensure the operations of KEMSA are not negatively affected in view of the absence of the Board.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware that the absence of a Board at KEMSA has rendered the agency unable to operate. The Minister dissolved the Board and suspended the Chief Executive Officer (CEO) on 10th July, 2008 for the purpose of paving the way for a task force to investigate complaints touching on transparency, inefficiency and unnecessary bottlenecks in service delivery at KEMSA.

Along with the dissolution of the Board, the Minister put in place transitional arrangements to enable continuity. These included the appointment of an acting CEO, empowered to transact the business of the Agency with the support of the Permanent Secretary, Ministry of Medical Services.

(b) The task force submitted its report on 21st October, 2008. We are in the process of studying its findings and recommendations. A new Board will shortly be constituted to oversee the Agency's operations and fast-track the implementation of the changes proposed by the taskforce. In the meantime, the Ministry headquarters will continue to provide policy and administrative facilitation to enable the Agency continue with its operations.

**Mr. Nyamai:** Mr. Speaker, Sir, I thank the Assistant Minister for his answer. However, is he in order to say that he is not aware that the lack of a Board has impaired the operations of KEMSA, when it is common knowledge that it has not been able to supply drugs for the last five months to most of the hospitals in this country? Most of the hospitals and dispensaries do not have essential medical supplies, because there is no Board to tell the management what to do.

**Mr. Mungatana:** Mr. Speaker, Sir, from the tone of the Question itself, there was a suggestion that important things like approving the change of signatories to bank accounts could not take place because there is no Board. What we are saying is that the changes that we effected, and the appointment of the Acting CEO, were communicated to all the authorities and, so they had full authority to operationalize accounts and everything that needed to happen. On the question of supply of drugs, it is, indeed, one of the reasons why we have had to dissolve the Board. There is a problem at KEMSA, which we are attempting to solve. We have good recommendations; what I can undertake in this House, as an Assistant Minister, is that the situation that has been existing will be a question of the past once we put the recommendations of the taskforce into operation in one month's time.

**Dr. Monda:** Mr. Speaker, Sir, Kenyans have suffered due to shortage of drugs in hospitals for a long time. That is one of the reasons why the Minister sacked the Board. From July to today, KEMSA has been operating without a Board. The Board has a mandate and the Chief Executive Officer alone cannot be performing the functions of a Board. Is the Assistant Minister in order to mislead the House that the CEO has been performing the functions of the Board? To date, there is no Board despite the fact that the task force has handed in its report. When is the Board going to be put in place?

**Mr. Mungatana:** Mr. Speaker, Sir, I appreciate the hon. Member's concerns about the appointment of the Board, but what we do not want to do is to repeat what has been done in the past, where people were just picked either for political or whatever expediency. We want to pick on good people. We received that report two days ago. I can guarantee that once we consider all the names on the table, we should be having the Board up and running within the month of October.

**Mr. Speaker:** Within the month of October or November?

**Mr. Mungatana:** This is the end of November--- I am Sorry; within the month of October, I beg your pardon.

**Mr. Speaker:** Within this month?

**Mr. Mungatana:** Within the month of December. This month is coming to an end; so, I am saying that within the next month we should be having it up and running.

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

**Mr. Nyamai:** Mr. Speaker, Sir, the Assistant Minister has tried to answer the Question, and I thank him for his assurance. As he puts in place a Board using the recommendations which were made by a taskforce, which was led by somebody who was a Permanent Secretary when KEMSA was failing, I hope he is not going to implement another failing programme in KEMSA.

**Mr. Speaker:** Order, Mr. Nyamai! You must be precise when asking a question. I believe you have asked a question already.

**Mr. Mungatana:** Mr. Speaker, Sir, I appreciate that the chair of that taskforce, Dr. Muga, is a former Permanent Secretary, but there were other members on that taskforce. They included Erastus Ruiru, Maureen Nafula, Julius Kemboi, Adan Khalif, Permanent Secretary, Ministry of Medical Services---

**Dr. Eseli:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to only allude to the former Director of Medical Services and not allude to the former Chief Pharmacist, who has also been reinstated and is part of the rot in KEMSA?

**Mr. Mungatana:** Mr. Speaker, Sir, I do not know whether that was a point of order. I was just trying to answer the hon. Member, and assure him that the chair of that taskforce was assisted by not only the other members, but even by the Permanent Secretaries of Ministries of Medical Services, Finance and Public Health and Sanitation. So, it is going to be a good thing after we implement the recommendations.

Mr. Speaker, Sir, regarding the other issue, I do not know whether the Chief Pharmacist is connected to this matter in terms of making KEMSA work. I can assure you that the Chief Pharmacist has everything to do with the Pharmacy and Poisons Board.

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is trying to mislead the House that the Chief Pharmacist has nothing to do with KEMSA. It is a fact that the Chief Pharmacist is the Chief Procurement Officer and, therefore, he is the one who procures all the medicines that come to KEMSA. Here, I have an audit report from the Controller and Auditor-General, which shows that the current appointee, Dr. Kosgey, was involved in the misappropriation of Kshs145 million when he was sacked by Mrs. Ngilu. Is the Assistant Minister in order to mislead us when, in fact, he should not have appointed this person in the first place?

*(Dr. Khalwale laid the report  
on the Table)*

**Mr. Speaker:** Mr. Assistant Minister, perhaps, that is legitimate and you might as well respond to it.

**Mr. Mungatana:** Mr. Speaker, Sir, I think the hon. Member and Dr. Eseli must be interested in why we reinstated the Chief Pharmacist to his position. I owe this House an explanation and it is very brief. I stand to be corrected, if I am wrong.

What happened was that previous to us being appointed to that Ministry, the Chief Pharmacist, Dr. Kosgey, was on suspension. Unfortunately for us, the Minister who was there before suspended him---

*(Loud consultations)*

**Mr. Mungatana:** Mr. Speaker, Sir, please protect me.

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

**Mr. Mungatana:** Mr. Speaker, Sir, what happened was that he was suspended, yes, but when we looked at the file--- It went through the disciplinary procedures, and there was no record of the due process having been followed. As a Ministry, we were then forced to ask for this information, part of which the hon. Member has tabled; since the information has reached us, we are looking at the issues in his file and then we will make a proper recommendation after following the due process. Definitely, we cannot act in this Parliament in the manner that the hon. Member might want us to act, but, since we now have the information, the necessary procedures will be

followed.

**Mr. Speaker:** Very well. Hon. Members, I am afraid that is the end of Question Time. The rest of the remaining Questions will have to be deferred until next week. They will have priority over Questions that may be up for next week.

We have two Ministerial Statements but, given the nature of the matter, we will first take the Ministerial Statement from the Ministry of State for Provincial Administration and Internal Security. That is because of the urgency of the matter. Mr. Assistant Minister, you have a maximum of five minutes to dispose off this matter, including to deal with clarifications.

*Question No.236*

FLOUTING OF LABOUR LAWS BY  
MULTI-NATIONAL TEA COMPANIES

*(Question deferred)*

*Question No.375*

DISCHARGE OF RAW SEWAGE INTO  
RIVERS IN NAIROBI AND THIKA

*(Question deferred)*

*Question No.246*

REHABILITATION OF KAMARINY STADIUM

*(Question deferred)*

*Question No.343*

RECLAMATION OF DAMS IN  
TETU CONSTITUENCY

*(Question deferred)*

*Question No.213*

MEASURES TO CUSHION FARMERS FROM  
FLUCTUATION OF WORLD COFFEE PRICES

*(Question deferred)*

**MINISTERIAL STATEMENTS**

ALLEGED PRESENCE OF MR. FELICIEN KABUGA

## AND FAZUL ABDULLA IN KENYA

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, on 16th October, 2008, hon. Mithika Linturi, the hon. Member of Parliament for Igembe South Constituency, stood on a point of order and demanded a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the alleged presence of Rwandan fugitive, Felicien Kabuga in Kenya.

Mr. Speaker, Sir, I wish to give a response to all the allegations made by the hon. Member as contained in the HANSARD Report of that particular day.

Mr. Speaker, Sir, Mr. Felicien Kabuga is a Rwandan national who is alleged to have played a leading role in the Rwandan Genocide. He is a wanted person by the International Criminal Tribunal for Rwanda for the allegation.

Mr. Kabuga visited the country in the year 1994 and, while on holiday, mysteriously disappeared. After his indictment in 1999 by the International Criminal Tribunal for Rwanda, the Government set in motion a mechanism to track him down and arrest him. Since then, the search has been on-going, but no arrest of the fugitive has taken place.

Mr. Speaker, Sir, since the Government stepped up its search for the fugitive, we have received a lot of un-substantiated information about his associates and businesses, all of which have turned out to be false. In its endeavour to capture the fugitive, the Government formed a joint six-member investigative team with officers drawn from the Kenya Police and the International Criminal Tribunal for Rwanda in 2007. The investigating team interviewed persons and received several intelligence reports on the whereabouts of Mr. Kabuga. All that intelligence information turned out to be negative.

For instance, one person interviewed in Mtwapa claimed that Mr. Kabuga had bought a *shamba* in the area. That turned out to be false. One person interviewed in Nairobi reported that the fugitive was hiding in a house in Ruai. That was also untrue.

Mr. Speaker, Sir, the fugitive is known to have several names, which make it difficult to identify him. Some of those names include Felicien Kabuga, Sarisita Idris Sudi, Abaches Stratrong, Athnas Munyaruga, Oliver Rukundani Kurunda, Felis Kabuga and Joseph Malumba Lualua. It is with those investigations and false intelligence that the Government is convinced that Mr. Kabuga is not in the country.

Mr. Speaker, Sir, as I indicated earlier, Mr. Kabuga's case has been a mystery and the matter is complicated further by his many names. The Government, therefore, is not in a position to mention any banks, financial institutions or companies that may have dealt with the fugitive. The Government is not aware of issues by the International Criminal Tribunal for Rwanda that have not been addressed. The Government is also inviting any evidence linking any official with cover-up regarding the issue of Mr. Kabuga.

Mr. Speaker, Sir, I also wish to reiterate that the Government will continue with its vigilance against the fugitive and, if at all he is ever found in Kenya, he will be arrested and handed over to the International Criminal Tribunal for Rwanda in Arusha.

Mr. Speaker, Sir, on the issue regarding the terrorist suspect, Mr. Fazul Abdulla Mohamed as asked by hon. Linturi, he is not a creation of the Kenyan or American intelligence agencies as has been alleged by the hon. Member. But it is a reality because the suspect was adversely mentioned by two convicts currently serving sentences in United States of America namely, Mohamed Daudi Awale and Abdikadir Udheni as the planner and mastermind behind the 1998 American Embassy bombing in Nairobi.

Mr. Speaker, Sir, lastly, the suspect was once married to a Kenyan lady by name of Amina Kuba Mohamed of Siyu, Lamu District, before he escaped to Somali after the 2002, Kikambala

Bombing.

Thank you, Mr. Speaker.

**Mr. Speaker:** We will just take two clarifications. Who was the owner of the Ministerial Statement?

Mr. Linturi! Make sure you just ask for a clarification.

**Mr. Linturi:** Mr. Speaker, Sir, I want to seek your indulgence because---

**Mr. Speaker:** No indulgence! Clarification simply defined as per the communication which I made about six weeks ago, must be as such.

**Mr. Linturi:** Mr. Speaker, Sir, before I seek any clarification, I would like the Assistant Minister to guarantee me of my security, in view of what he told me yesterday at the Pigeon Hole's compartment, when we

met in the presence of hon. Mwau. He clearly told me that the people who have pursued Mr. Felicien Kabuga have all died, and I would follow suit. So, before I seek any other clarification, let him explain to this House whether that was a joke or fact and then, I can proceed.

**Mr. Speaker:** Very well. The Minister will respond to that. Can you seek your clarification at this time?

Mr. Assistant Minister, note that!

**Mr. Linturi:** Mr. Speaker, Sir, let the Assistant Minister as well clarify whether---

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

**Mr. Speaker:** Order, Mr. Olago! We are already out of time. We must transact business expeditiously!

**Mr. Linturi:** Mr. Speaker, Sir, I want the Assistant Minister to clarify whether the Government of Kenya, through the Ministry of State for Immigration and Registration of Persons, issued a permit No.772285 under Class Eight after an application dated 16th January, 1994, and signed by a Mr. Kabuga? I want him to clarify whether he is aware that some of his companies, Domestic Freighters, incorporated on 25th July, 1994 and Shikadem Agencies, incorporated on 22nd September, 1995, has one of the directors in the Memorandum of Articles of Association as Mr. Kabuga.

Mr. Speaker, Sir, finally, let him confirm to us whether he is aware that Barclays Bank of Kenya opened accounts Nos.102760018 and 102760026 in the name of Felicien Kabuga and gave a letter of notice of intention to close the accounts on 24th August, 2006, under reference No.PB/ANG/08/06 signed by Gladys Akinyi who is the Head of Personal Banking and Ann Gicheru, the Account Relationship Manager in relation to Mr. Felicien Kabuga.

**Mr. Speaker:** Very well, Mr. Linturi. We have given you so much indulgence.

Dr. Khalwale!

**Dr. Khalwale:** Mr. Speaker, Sir, this case of Mr. Kabuga is a typical case where Kenyan police officers do a good job but then, they are frustrated by high ranking officers in the Government. This is because the police officers arrested this man on 14th May, 1997, three years after he had been in the country and took him to Kilimani Police Station. The Occurrence Book (OB) number was 5/14/5/97. Having done that, on 20th May; three days later, after Mr. Kabuga had been at the Kilimani Police Station, a senior officer of Government (a Major-General) then put pressure on the Principal Immigration Officer to release Mr. Kabuga and he did so. Could the Assistant Minister tell this House the name of this Major-General who put pressure on the Principal Immigration Officer? Could he also tell this House why they have never arrested the Major-General, who is still alive, to find out the details of Mr. Kabuga? What interests did that Major-General have in a fugitive of international status?

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

**Security** (Mr. Ojode): Mr. Speaker, Sir, this is a very sensitive issue and we must be very sober while dealing with it. First of all, I want to assure the hon. Member that his security is guaranteed. So, he should not worry.

*(Laughter)*

Mr. Speaker, Sir, the hon. Member should have declared his interest in this case, especially with regard to the issue of opening a bank account with Barclays Bank. However, let me say the following---

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

**Mr. Speaker:** Order, Mr. Wamalwa! We have to move to conclude this business.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I had mentioned here that Mr. Kabuga visited this country in 1994. So, it is true that he was here during that year. He, however, mysteriously disappeared. If I could get all these documents, I will take it upon myself to give them to the police and investigate the matter. I will then report back to this House. However, they have ambushed me with some documents and yet, I mentioned here that Mr. Kabuga has several names and some of them might not belong to the real Mr. Kabuga. If I could get the documents, then it will be possible for me to give them to the police---

**Mr. Speaker:** Order, Mr. Ojode! How long do you require?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Speaker, Sir, I will need one more month and then report back to this House, based on the documents which they have.

*(Loud consultations)*

**Mr. Speaker:** Order, hon. Members! You are aware that this is a very sensitive matter. It is a matter in which the international community is interested. Therefore, we must deal with it carefully, cautiously and, at all stages, bear in mind the interests of the country and that of the international community. That, therefore, makes this matter very grave and weighty. We will want to deal with it in a manner that is satisfactory and as much as possible, exhaustive.

I will, therefore, direct that hon. Members, including the owner of the request, to lay on the table all the documents that they have referred to so that the Assistant Minister has an opportunity to look at them and come back with a sufficient and satisfactory response, a month from today. The matter is, therefore, ordered to be deferred for a month henceforth.

**Mr. Linturi:** Mr. Speaker, Sir, I beg to table the documents that I referred to, especially one of the letters that is signed by a one Major-General L.K. Sumbeiywo, dated 3rd June, 1997, which was addressed to the Principal Immigration Officer asking him to---

**Mr. Speaker:** Order, Mr. Linturi! Lay the documents on the Table!

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

**Mr. Konchella:** Mr. Speaker, Sir, I rise to give notice of a Motion for the Adjournment Under Standing Order No.20 to discuss the deteriorating state of insecurity in the country---

**Mr. Speaker:** Order, Mr. Konchella! You are supposed to give notice for a Motion of Adjournment. That is what you should proceed to do.



**NOTICE OF MOTION FOR  
ADJOURNMENT UNDER STANDING ORDER NO.20**

DETERIORATION OF SECURITY IN KENYA

**Mr. Konchella:** Mr. Speaker, Sir, I beg to give notice of a Motion for Adjournment under the provisions of Standing Order No.20 to discuss the deteriorating state of insecurity in the country.

Thank you.

**Mr. Speaker:** Order! Order, hon. Members! The hon. Member has complied with the provisions of Standing Order No.20. We would want to see how many hon. Members support the Motion.

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

**Mr. Speaker:** Very well. Hon. Members, I am satisfied that the hon. Member has complied with the provisions of Standing Order No.20 and that he has sufficient support from the House for the Motion for Adjournment under Standing Order No.20. I am further satisfied that the Motion pertains to a matter that is definite, urgent and of national importance. I, therefore, allocate 5.30 p.m. today for debate on this matter.

**POINT OF ORDER**

DELAY IN TABLING REPORT ON ALCOHOL  
CONTENT IN ALVARO DRINK

**Dr. Monda:** Mr. Speaker, Sir, as Chairman of the Departmental Committee on Health, Housing, Labour, and Social Welfare, I rise on a point of order in connection with the matter of investigation on alcohol content of the consumer product, Alvaro, by my Departmental Committee.

Mr. Speaker, Sir, as you are aware, on 5th August, 2008 following an Ordinary Question by an hon. Member, the Chair referred the said matter to the Committee for investigation. The Committee was asked to report to the House within 14 days. The Committee has made significant progress on the matter and has held a total of 12 meetings on the same. However, due to delays in carrying out forensic testing, the Committee is yet to complete its task. I, therefore, ask the House to grant the Committee more time to be able to finish this important task. In this regard, I undertake to table the Report during the second week of December, 2008.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Order, hon. Members! Indeed, the Chair is aware of this matter as has been intimated by the Chair of the Departmental Committee concerned. The Chair is further aware of the difficulties that the Committee has encountered in progressing with its investigation into this matter. Taking all the circumstances into consideration, I order that the Committee lays on the Table its Report on the 25th of November, 2008.

Hon. Members will note that for the next Order, there is a Supplementary Order Paper which all of you ought to have.

**COMMITTEE OF THE WHOLE HOUSE**

*(Order for Committee read)*

*[Mr. Speaker left the Chair]*

IN THE COMMITTEE

*[Mr. Chairman took the Chair]*

**THE TRUTH, JUSTICE AND RECONCILIATION COMMISSION BILL**

**Mr. Chairman:** Hon. Members, we are now in the Committee of the whole House considering the Truth, Justice and Reconciliation Commission Bill.

*Clause 2*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 2 of the Bill be amended in the definition of "gross violation of human rights violations" by inserting a new paragraph immediately after paragraph (f) as follows-

(g) crimes against humanity.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Mr. Chairman, Sir, I welcome the amendment since it strengthens the Bill.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Clauses 3 and 4 agreed to)*

*Clause 5*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended by deleting paragraphs (d), (e), (f), (g), (h), (i), (j) and (o).

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Mr. Chairman, Sir, I welcome the amendment since it tidies up the Bill.

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

*(Clause 5 as amended agreed to)*

*Clause 6*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT Clause 6 of the Bill be amended-

(a) in paragraph (a) by deleting the words "human rights relating to killings, abductions, disappearances, detentions, torture" and substituting therefor the words "gross human rights relating to abductions, disappearances, detentions, torture, sexual violations, murder, extra-judicial killings,"

(b) by inserting the following new paragraphs immediately after paragraph (1)-

(m) consider the reports of the relevant commissions of inquiry and make recommendations of the implementation of such reports;

(n) investigate economic crimes including grand corruption and the exploitation of natural or public resources and with the action, if any, taken in respect thereof;

(o) inquire into the irregular and illegal acquisition of public land and making recommendations on the repossession of such land or the determination of cases relating thereto;

(p) inquire and establishing the reality or otherwise of perceived economic marginalisation of communities and making recommendations on how to address the marginalisation;

(q) inquire into the misuse of public institutions for political objectives;

(r) inquire into acts of state repression including torture, cruelty and degrading treatment for political objectives;

(s) inquire into the causes of ethnic tensions and make recommendations on the promotion of healing, reconciliation and co-existence among ethnic communities;

(t) investigate into the whereabouts of victims and restore the human and civil dignity of such victims by granting them the opportunity to relate their own accounts of the violations of which they are victims, and by recommending reparation measures in respect of them.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua);  
Mr. Chairman, Sir, again, I welcome the amendment. It tidies up the Bill.

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

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 6 as amended agreed to)*

*Clause 7*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 7 of the Bill be amended-

- (a) by deleting paragraph (j) appearing in Subclause (2)
- (b) by inserting the following new Subclause immediately after Subclause (5)-
- (6) The police shall, on request being made by the Commission, provide the Commission with such service and assistance as may be required by the Commission.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
be inserted, put and agreed to)  
(Clause 7 as amended agreed to)*

*(Clause 8 agreed to)*

*Clause 9*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended-

- (a) in Subclause (1)-
  - (i) by deleting paragraph (d) appearing in Subclause (1) and substituting therefor the following paragraph-
  - (d) one person nominated by the Central Organisation of Trade Unions;
  - (ii) by deleting paragraph (g) appearing in Subclause (1) and substituting therefor the following new paragraph-
  - (g) one person nominated by the Kenya Private Sector Alliance;
- (b) by deleting Subclause (2) and substituting therefor the following new Subclause-
- (2) The function of the selection panel shall be to-
  - (a) nominate persons to be appointed as commissioners under Section 10 (1)(a);
  - (b) perform the functions with respect to the removal of Commissioner or chairperson as set out in Section 17(3).

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I wish to oppose this particular amendment and draw the attention of the hon. Members to the way Clause 9 is structured as currently in the Bill. The nominating organisations have been structured in part (d); one person jointly nominated by the Central Organisation of Trade Unions (COTU) and the Kenya National Union of Teachers (KNUT). If you notice, these are the workers clustered together. Then in (g) we have the employers. One person jointly nominated by

the Kenya Private Sector Alliance (KEPSA) and the Federation of Kenya Employers (FKE).

Therefore, if you delete the Central Organization of Trade Unions (COTU) and substitute it with Kenya Private Sector Alliance (KEPSA), you are putting the employers twice and deleting the workers. In order to maintain a balance, I want to plead with the hon. Members to leave this clause as it is and my colleague to withdraw the amendment. Look at the sector that is being provided for and not the personalities in it. Workers need a voice and that is why we gave both COTU and the teachers, which are the two organizations representing majority of workers in this country.

I beg to oppose and plead with my colleague to withdraw that amendment.

**Mr. Abdikadir:** Mr. Chairman, Sir, the proposal makes sense. I agree to concede.

**Mr. Chairman:** Have you withdrawn your proposed amendment?

**Mr. Abdikadir:** Mr. Chairman, Sir, the proposal is, therefore, withdrawn.

*(Proposed amendment withdrawn)*

**Mr. Chairman:** Prof. Kamar also has an amendment to Clause 9.

**Prof. Kamar:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 9 of the Bill be amended by inserting the following new subclause immediately after

Subclause (3)-

(3A) The chairperson and vice-chairperson elected under subsection (2) shall be persons of opposite gender.

This is basically to bring in gender in that clause during the appointment of the chairperson and vice-chairperson.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I welcome the amendment. It strengthens the Bill.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): Mr. Chairman, Sir, I just want to endorse and say that this is a very good amendment. I would like to plead with all the other bodies, when they are preparing Bills of this nature, to be gender-sensitive.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 9 as amended agreed to)*

#### *Clause 10*

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

THAT, Clause 10(1)(a) be amended by inserting the words "at least one of whom must be of the opposite gender" immediately after the word "citizens".

Mr. Chairman, Sir, this is, again, to strengthen the Bill by indicating that, at least, one of the three people nominated by the Panel of Eminent Persons must be of the opposite gender.

*(Question of the amendment proposed)*

**Mr. Abdikadir:** Mr. Chairman, Sir, I support the amendment by the Minister. Essentially, this amendment was to make sure that we do not have foreigners dominating the Kenyan process. This is because you will realise that earlier on the Bill talked about seven nominees, three of which were foreigners and four were Kenyans. We thought that, that was going to be dominated by the foreigners. The idea was to increase the number to nine. Further, we envisage that the Commission will have committees and for purposes of having as many committees as necessary, we felt that the number needed to improve. Finally, to help with diversity, we felt that the number needed to go further.

In that sense, I support the amendment by the Minister that one of the members of the Kenyan citizens and one of the foreigners be of the opposite gender.

**Mr. Nyamweya:** Mr. Chairman, Sir, while I support the proposed amendment, I have some difficulties about introducing the Panel of Eminent Africans or whatever panel into our laws. I do not know whether we cannot find a way of accommodating whatever it is we want to do without really making it part of the law itself.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

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

THAT, Clause 10(1)(3) is amended by deleting the word "equity" and replacing it with the word "equality."

Again, this relates to gender.

*(Question of the amendment proposed)*

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

*(Question, that the word to be inserted in place  
thereof be inserted, put and agreed to)*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended-

(a) in Sub-clause (1)-

(i) by deleting the word "seven" and substituting therefor the word "nine"

(ii) by deleting the word "four" appearing in paragraph (b) and substituting therefor the word "six";

(b) in Subclause (2) by inserting the expression "appointed under Subsection (1)(b) immediately after the word "commissioners";

(c) by inserting the following new Subclause immediately after Subclause (2)-

(2A) The commissioners to be appointed under paragraph (a) shall be recommended by the African Panel of eminent African personalities, and thereafter be nominated by parliament, who will then forward the names to the President for appointment.

(d) In Subclause (5)-

- (i) by deleting paragraph (a);
- (ii) by deleting paragraph (c) and substituting therefor, the following new paragraph-
- (c) has not been in any way involved, implicated, linked or associated with human rights violation of any kind or in any matter that is to be investigated under this Act.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I wish to support the amendment. It actually strengthens the Bill in the manner described by the Chairman of the Committee.

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

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**Mr. Chairman:** Prof. Kamar has another amendment to Clause 10. Proceed!

**Prof. Kamar:** Mr. Chairman, Sir, the amendment I was trying to introduce has already been introduced by the Minister. So, I withdraw my amendment.

*(Proposed amendment withdrawn)*

*(Clause 10 as amended agreed to)*

**Ms. Abdalla:** Mr. Chairman, Sir, we had issues on Clause 10(c) regarding the involvement of Parliament in the nominating of the Eminent Africans. I think we need to get back to Clause 10(c). In 2(a), it is saying that the commissioners to be appointed under Sub-Section (b) shall be recommended by the Panel of Eminent African Personalities. The others shall be nominated by Parliament. Parliament will then forward the names to the President for appointment.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): On a point of order, Mr. Chairman, Sir. My understanding was that the Chair of the Committee moved the entire amendment on Clause 10 and we passed it wholly.

**Mr. Chairman:** Madam Minister, the gravity of Section (c) itself, and I noticed Ms. Abdalla who rose up on that issue--- We do not want to be accused of rushing through this. Have you completely internalised the contents of this? That is on the Panel of Eminent African Personalities and the rest.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Yes, Mr. Chairman, Sir. If you look at the original clause, it clearly says that three shall be non-citizens and selected by the Panel of African Eminent Personalities. What the Committee is introducing is that, after the three are nominated by that Panel, they come to Parliament for onward transmission so that, Parliament is aware of what it is that has been forwarded. We have no quarrel with that.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): Mr. Chairman, Sir, I think this issue of the Panel of the African Eminent Personalities has already been accepted in this country. We need to be grateful to them for the two commissions that they have assisted us to establish. That should not be an issue. I think we have now accepted that the Panel of African Eminent Personalities is part of our lives.

Thank you, Mr. Chairman, Sir,

*Clause 11*

**Mr. Nyamweya:** Mr. Chairman, Sir, perhaps, I might have overshot myself. That brings me to the point which, indeed, I was going to raise. I am raising---

**Mr. Chairman:** Hon. Member, we are already on Clause 11. We have gone beyond that! If you support it, fair enough!

**Mr. Nyamweya:** I will not support that one!

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT Clause 11 of the Bill be amended-

(a) in Subclause (1) by deleting the words "appointed by the President from amongst the commissioners" and substituting therefor the words "elected by the commissioners from amongst themselves";

(b) in Subclause (3) by deleting paragraph (c).

Mr. Chairman, Sir, one of the biggest issues with truth commissions is the independence of those commissions. These proposals allow the commissioners to elect their own chair as opposed to the President doing so. That is essentially to shield the commissioners from any perceived political interference, and to strengthen the independence of the commission.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I oppose this particular amendment. If you look at the way the commissioners will be appointed, they are wholly being appointed by a process outside the Executive. When naming the chairperson, the Executive is restricted to the persons appointed. So, there is no way that the appointment can undermine--- I am pleading with hon. Members, once again, to focus on the institution. When the Committee was adding the Kenyan component, from four to six, it was a question of ownership. So, when the Executive appoints the chair, it is, again, a part of ownership by the nation. That is a harmless provision and I would urge the Committee to let it stand.

Mr. Chairman, Sir, I also wish to draw the attention of hon. Members to Clause 11(2). When the President has appointed the chairperson from among the commissioners who are nominated by Parliament and the Panel of Eminent African Personalities, the chairperson then, convenes the commission within seven days. When that arrangement is destroyed by this amendment, it means that the commission will have nobody to convene it. That has not been thought out by the Committee. It then paralyses the commission because none of them will be a chairman capable of convening. I would urge the Committee to withdraw this amendment and to let the clause stand as it is. Let us recognise our institutions. There is no way the credibility or the independence of the commission can be undermined when the appointment is restricted to among the members already appointed.

So, I beg to oppose.

**Mr. Chairman:** Hon. Abdikadir or, for that matter, any other hon. Member who wants to contribute to the same?

Yes, hon. Nyamweya!

**Mr. Nyamweya:** Mr. Chairman, Sir, I want to concur with the Minister. I think we should not fall into a pitfall of having fears about our own people. I would like to say that let us look at our institutions and not the individuals. You may not particularly like the individuals. So, I think it makes sense to have an appointing authority in all the things that we are doing. Let us begin to have



faith in ourselves. Let us begin to build that culture. I would, therefore, urge my colleagues to let the clause stand the way it is.

### QUORUM

**Mr. Kambi:** On a point of order, Mr. Chairman, Sir. Going by the weight of this matter and, looking at the hon. Members who are in this House, I do not think we have a quorum.

**Mr. Chairman:** Hon. Kazungu, I have not heard you!

**Mr. Kambi:** Mr. Chairman, Sir, going by the weight of this matter, and looking at the hon. Members who are in this House, I do not think we have the quorum to transact business!

**Mr. Chairman:** Clerk-at-the-Table, please, check whether we have a quorum. Yes, we do not have a quorum! Ring the Division Bell!

*(The Division Bell was rung)*

**Mr. Chairman:** Order! Order, hon. Members! We now have a quorum!  
We were on Mr. Abdikadir's amendment to Clause 11.

**Mr. Abdikadir:** Mr. Chairman, Sir, I have a lot of respect for my senior learned friend, but I believe the perception of the independence of this institution is very crucial. One of the biggest issues with truth, justice and reconciliation commissions is the independence of those bodies. While I have immense respect for the Minister, I would wish to continue to support the amendment as proposed. While the issue that was raised, of calling the first meeting, is crucial, it is not as weighty, in substance, as the perception that this commission is independent of the Executive or any other institution.

**The Assistant Minister, Office of the Deputy Prime Minister and Minister for Local Government** (Mr. Githae): Mr. Chairman, Sir, I wish to oppose the proposed amendment. It is very clear that, whereas the intention is very noble - to make sure that the commission is independent - there is one point which was not thought out through. If there is no chairman, who convenes the first meeting? We have a provision in our House rules which says that even a committee will elect a chairman from amongst its membership. There has to be somebody to call the first meeting, so that the commissioners can meet and elect a chairman. If there is no chairman, we shall have a hitch. It would mean that we may as well forget about the whole Bill, because it becomes a non-starter.

Thank you, Mr. Chairman, Sir.

**Ms. Odhiambo:** Mr. Chairman, Sir, I wish to support the proposal. The position of the Truth, Justice and Reconciliation Commission is very important, especially given the reports that have come out. It is important for members of the public to have confidence in the chair. The public will not have confidence in the chair if the chair is perceived to have been appointed by the President. Therefore, I would suggest an amendment that---

**Mr. Chairman:** You support the amendment!

**Ms. Odhiambo:** Thank you, Mr. Chairman, Sir.

**Mr. Chairman:** Hon. Members, I presume we need to dispose of this amendment. So, I will put the Question after Mr. Mungatana speaks.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Thank you, Mr. Chairman, Sir. I am pleading with the Chairman of the Departmental Committee on Administration of Justice and Legal Affairs. The precedence we have seen in this country of late, for example, from the Justice Waki Commission and the Justice Kriegler Commission---

The kind of appointments that we have seen coming from the sitting President, really, even without having gone through Parliament, cannot be seen to have been prejudicial in a sense. So, I am pleading with hon. Members that in this particular case, it is, in fact, going to pass through Parliament. We will clear those three names, which the Head of State will have to pick from.

Mr. Chairman, Sir, from what I have seen, either way, it has really not been prejudicial. So, I do not think we should, really, squabble over this at any rate. I felt very strongly that the Chair was of that very strong opinion. They could have consulted. We should not have issues over this. In my opinion, the recent appointments, if we are anything to go by, even without passing through Parliament, are reasonable.

I support that we should have the chair.

**Mr. Chairman:** Hon. Members, I want us to dispose of this Bill by 5.30 p.m. The decision, ultimately, lies with you, Members of Parliament.

*(Question, that the words to be left out be left out, put and negated)*

Hon. Members, we have another amendment to Clause 11 by Prof. Kamar.

**Prof. Kamar:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended by inserting the following new subclause immediately after Subclause (2)-

(2A) The vice-chairperson elected under Subclause (2) shall be a person of the opposite gender of the chairperson.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Mr. Chairman, Sir, the amendment is most welcome.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 11 as amended agreed to)*

#### *Clause 12*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 12 of the Bill be amended by deleting the words "under Section 7".

Essentially, the cross-referencing is wrong in the sense that Clause 7 deals with something completely different from what Clause 12 is assuming it deals with. If I may take you back, Clause 7 deals with powers of the commission in relation to investigations, whereas Clause 12 states as follows:-

"The term of office of a commissioner shall be from the date of appointment under Section 7."

Mr. Chairman, Sir, the assumption here is that Section 7 deals with appointments, which it does not. So, we are saying, that this cross-referencing is wrong. We are, therefore, proposing that the cross-referencing be removed.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, the amendment is welcome. It does tidy up the Bill.

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

*(Clause 12 as amended agreed to)*

*Clause 13*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-  
THAT, Clause 13 of the Bill be amended by deleting Subclause (2).  
Mr. Chairman, Sir, we have proposed this amendment on the basis that Subclause (2) of Clause 13 looks superfluous to the Committee.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

**Dr. Eseli:** Mr. Chairman, Sir, I am surprised that we should want to delete this part of the proposed amendment, which seeks to provide that the secretary to the commission serves on a full-time basis. We have already amended the Bill to remove the provision that the chairman will supervise and direct the work of the commission. So, there is no supervisor or anybody directing the work of the commission. Now, we are saying that the secretary should not serve on a full-time. What kind of commission are we going to have? I think the secretary should serve on a full-time basis, if I am not mistaken.

**Mr. Chairman:** Either Mr. Abdikadir or the Minister can put this into proper perspective.

**Mr. Abdikadir:** Mr. Chairman, Sir, if you look at Clause 13(1), it reads:-

"There shall be a secretary to the Commission who shall be appointed by the Commission on such terms and conditions of service as the Commission may determine".

Then Clause 13(3) reads:-

"The secretary shall be the Chief Executive of the Commission and shall be responsible to the Commission for that listed number of issues".

If you look at the clause, we do not need to state that it is going to be a full-term.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, in support of Mr. Abdikadir's position, the letter of appointment is where the details of terms of service are put. It is, therefore, not necessary to state any term or condition in the Bill.

**Mr. Chairman:** Hon. Members, is there any Member who wants to contribute or has a position on the clause before I put the question?

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

*(Clause 13 as amended agreed to)*

*(Clause 14 agreed to)*

*Clause 15*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 15 of the Bill be amended in Subclause (2) by inserting the words "and shall not be reviewed to the disadvantage of any commissioner during his term of office" at the end thereof.

Mr. Chairman, Sir, again, Clause 15 deals with terms and conditions of service of the proposed commissioners. The amendment is aimed at giving them financial security so that they do not get controlled financially. Essentially, this is the problem we have with the Judiciary right now. By virtue of taxation after the event, we have members of the Judiciary feeling that they are unfairly being targeted. There is also some worry that this might be a tool of control. The amendment, is therefore, aimed at giving them financial security.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, the proposal is standard and I welcome it.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 15 as amended agreed to)*

*Clause 16*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 16 of the Bill be amended by deleting paragraphs (e) and (f).

Mr. Chairman, Sir, I note that the Order Paper refers to Clause 16 as Clause 13.

Mr. Chairman, Sir, essentially the amendment is to transfer the two subclauses to the next clause. This is because, if you look at Clause 16, it deals with vacancy. This basically assumes automatic vacancy. Yet, Subclauses (e) and (f) require investigation as opposed to automatic vacancy. This would be better served if we took them to the next clause which deals with removal of commissioners. So, while we agree to both clauses being there, we feel they better fit under Clause 17 as opposed to Clause 16.

Mr. Chairman, Sir, we also feel that if these subclauses are left under Clause 16, it will be unfair in the sense that these are issues which require investigation.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I am convinced and, therefore, support the amendment and commend the Committee for noticing the anomaly.

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

*(Clause 16 as amended agreed to)*

*Clause 17*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 17 and replacing it with the following:-

17. (1) Without prejudice to Section 16, the chairperson or commissioner may be removed from office by the President:-

(a) for misbehaviour or misconduct; or,

(b) if the chairperson or commissioner is convicted of an offence involving moral turpitude but not sentenced to a term of imprisonment; or,

(c) if the chairperson or commissioner is unable to discharge the functions of his office by reason of physical or mental infirmity; or

(d) if the chairperson or commissioner is absent from three consecutive meetings of the Commission without good cause but shall not be removed except in accordance with this section.

(2) Where the removal, the question of the removal from office of the chairperson or a commissioner arises under subsection (1):-

(a) the Chief Justice shall, by notice in the gazette appoint a Tribunal which shall consist of a chairperson and two other members selected by the Chief Justice from among persons who hold or have held office as judges of the High Court;

(b) the Tribunal shall inquire into the matter and report on the facts to the Chief Justice and recommend whether the chairperson or the commissioner ought to be removed from office and the Chief Justice shall communicate the recommendations of the Tribunal to the President.

(3) Where the question of removing the chairperson or a commissioner has been referred to a Tribunal under subsection (2), the President may suspend the chairperson or the commissioner from the Commission and the suspension may at any time be revoked by the President and shall in any case cease to have effect if the Tribunal recommends to the President that the chairperson or the commissioners, as the case may be, should not be removed.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):**  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be  
inserted in place thereof be  
inserted, put and agreed to)*

*(Clause 17 as amended agreed to)*

*Clause 18*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 18 of the Bill be amended by deleting Subclause (2).

Mr. Chairman, Sir, we found this subclause superfluous in view of the fact that, it is obvious that if a commissioner was replacing another commissioner and the term was already set, he or she would serve the balance of the term.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Clause 18 as amended agreed to)*

*(Clause 19 agreed to)*

*Clause 20*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 20 of the Bill be amended by inserting the following new subclauses immediately after Subclause (2):-

(2A) Where for any reason the commission is unable to finalize its work within the period of two years in accordance with Subsection (1), it shall, at least three months before the expiry of the two-year period, submit a progress report to the National Assembly together with a request for extension of the period beyond two years.

(2B) The National Assembly may, if satisfied as to the reasons why an extension of the life of the commission is necessary, extend the duration for the Commission to continue its work but shall not in any case extend such duration for more than six months.

Mr. Chairman, Sir, I am, however, flexible to suggestion from the Minister.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

*(Question, that the words to be  
inserted be inserted,  
put and agreed to)*

*(Clause 20 as amended agreed to)*

*(Clauses 21, 22, 23 and 24 agreed to)*

*Clause 25*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 25 of the Bill be amended-

(a) in Subclause (4) by deleting paragraph (c) and the proviso thereof;

(b) by inserting the following new subclauses immediately after Subclause (4)-

(4A) A person who disobeys any direction of the Commission under Subsection (4) commits an offence and is liable on conviction to imprisonment to a term of not more than two years or a fine of not more than two hundred thousand shillings or both.

(4B) The Commission may give such directions in respect of the record of proceedings as may be necessary to protect the identity of any witness before it.

Mr. Chairman, Sir, Subclause 4(c) does not fit in well with the other subclauses. If you look at Clause 25(4)(1) where the Commission directs the public, or any part thereof, shall not be present at any proceedings or part of the commission---

Part (c) says "that such directions will be given in respect of the record of proceedings as may be necessary to protect---" It does not fit in well. The second issue is that we were providing a penalty so that it becomes a stronger clause.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):**  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 25 as amended agreed to)*

*Clause 26*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended in Subclause (4) by deleting the word "Part" and substituting therefor the word "Act".

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):**  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the word to be  
inserted in place thereof be)*

*inserted, put and agreed to)*

*(Clause 26 as amended agreed to)*

*Clause 27*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 27 of the Bill be amended by deleting the words "may establish special units" and substituting therefor the words "put in place special arrangements".

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
in place thereof be inserted,  
put and agreed to)*

*(Clause 27 as amended agreed to)*

**Mr. Chairman:** I now call upon Prof. Kamar to move an amendment to the same clause.

**Prof. Kamar:** Mr. Chairman, Sir, the amendment that has been moved by Mr. Abdikadir has removed the worry that I had. So, I withdraw my amendment.

*(Proposed amendment withdrawn)*

*Clause 28*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT Clause 28 of the Bill be amended by deleting Subclause (1) and substituting therefor the following new Subclause-

(1) Subject to Subsection (2), any person whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in any matter under inquiry, shall be entitled to be represented by an advocate in the proceedings of the inquiry, or any part thereof, and any other persons who desire to be so represented may, by leave of the Commission, be so represented.

(1A) Any person whose conduct is the subject of inquiry under this Act, or who is implicated or concerned in any matter under inquiry under this Act, and who is summoned to appear before the Commission in person.

Mr. Chairman, Sir, Clause 28 deals with legal representation. The most important issue is compelling people who have been mentioned to appear in person, so that we do not have the problem we had with the Goldenberg Inquiry, where nobody, who was mentioned, appeared in person.



*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
in place thereof be inserted,  
put and agreed to)*

*(Clause 28 as amended agreed to)*

*(Clause 29 agreed to)*

*Clause 30*

**Prof. Kamar:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 30 of the Bill be amended by inserting the following new Subclause immediately after Subclause (1)

(1A) Any appointment made under Subsection (1) shall be with regard to the principle of gender equality.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

**Mr. Mbadi:** On a point of order, Mr. Chairman, Sir. I have not seen the amendment.

**Mr. Chairman:** It is at the back of the Order Paper. Hon. Members, you rise up to seek clarifications after the Chair has proposed the Question!

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 30 as amended agreed to)*

*Clause 31 agreed to)*

*Clause 32*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended by deleting the expressions "a member of the commission or" and "render the member" wherever they occur.

Mr. Chairman, Sir, essentially, this is a repetition of what was already provided for under Clause 24. So, we are tidying it up.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Clause 32 as amended agreed to)*

*(Clause 33 agreed to)*

*Clause 34*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 34 and substituting therefor the following new Clause-

34(1) A person may make an application for consideration of amnesty to the Commission for any act or omission which constitutes a matter to be investigated under this Act.

(2) The Commission may in accordance with this Part, and subject to Subsection (3), recommend the grant of conditional amnesty to any person liable to any penalty under any law in Kenya or any international treaty to which Kenya is a party.

(3) Notwithstanding Subsection (1) no amnesty may be recommended by the Commission in respect of gross violation of human rights.

(4) Where the criminal penalty attaches in respect of a matter on which an amnesty has been requested under this Act the Commission shall not recommend amnesty in respect thereof:-

(a) until the Commission has considered any reasonable objection from the victim;

(b) in respect of economic crimes, the applicant has not made restitution.

Mr. Chairman, Sir, this is one of the most drastic proposals we made to amend the Bill. This was a very emotive and highly charged issue. We propose to completely delete the current Clause 34 and replace it with what is indicated on the Order Paper. Essentially, we had three issues with the amnesty proposal. The first is the constitutional issues that amnesty raises, and whether a Commission of this kind can give amnesty in respect of the very wider of the Attorney-General under the Constitution as regards criminal prosecutions. Since the Constitution gives the Attorney-General unfettered powers in relation to criminal prosecutions, if the Commission was to propose amnesty, and the Attorney-General disagrees, then the Attorney-General will always triumph, unless this Commission is anchored in the Constitution, and we do not have a constitutional amendment before us.

Mr. Chairman, Sir, the second issue is that when you are wronged, the Constitution guarantees you the right to redress. If you are injured then you have a right to redress. By giving amnesty, the presumption is that the State is saying that you are wronged but you do not have a right to redress because we are going to be granting amnesty. This is the whole issue where the victim comes into the process.

The third issue was that of whether the Commission can give amnesty or can propose it.

We were informed by all those three issues when we were proposing this amendment. I am specifically alerting you to the amendment suggested in Clause 34, Subsection 4(4), which states:-

"Where the criminal penalty attaches in respect of a matter on which an amnesty has been requested under this Act, the Commission shall not recommend amnesty in respect thereof-

- (a) until the Commission has considered any reasonable objection from the victim;
- (b) in respect to economic crimes, the applicant has made restitution.

This is so that it does not look like you are entitled to amnesty for economic crimes even before you have made restitution. This whole amnesty proposal has been reworked in the amendment.

**Mr. Shakeel:** Mr. Chairman, Sir---

**Mr. Chairman:** Order! Mr. Shakeel, acquaint yourself with the rules. Just listen to the Chair! You cannot interject to seek clarification before the Question is proposed. It is only the Mover of the amendment who has the chance to clarify the amendment. So, let me propose the Question first.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I want to begin by saying that Clause 34 has been wholly misunderstood as regards amnesty. The position in the proposed amendment is exactly and squarely identical to the position in the proposed Bill. Amnesty is not given. It is only a recommendation.

The only reason I will accept this amendment is because I have seen further amendments that are more specific as relates to the victims' rights. But if you see the structure of the Bill, it is quite obvious that before they recommend, they will have heard everybody. But there is nothing wrong with the Bill being more specific. The Bill was also not granting blanket amnesty as has been suggested in many quarters. If you look at it, the spirit is exactly the same as this amendment. But I want to concede that further amendments as recommended by the Committee do strengthen the proposal for the recommendation for amnesty. I, therefore, welcome it.

**Mr. Shakeel:** Mr. Chairman, Sir, I seek your guidance because if the proposal by Mr. Abdikadir is accepted, and I am sure it will be accepted--- I would like to take you to the last page. There is another amendment on the same Clause 34. Does that fall out, then?

**Mr. Chairman:** Hon. Member, this is a Committee of the whole House. You will have to wait until we get to that clause. But if you have a problem with this clause itself, you can raise it.

**Mr. Shakeel:** But it relates directly to the same clause!

**Mr. Chairman:** Indeed, when we get to it, you will talk about it.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Chairman, Sir, I just want to commend the Chairman of the Departmental Committee on the Administration of Justice and Legal Affairs for the efforts he has put. I really like this amendment. We should support it because it seems they have gone down to the nitty-gritty of trying to avoid a situation where the victims' rights are compromised.

Mr. Chairman, the House should support this amendment.

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

*(Question, that the words to inserted in place thereof be inserted,*

*put and agreed to)*

**Mr. Chairman:** There is another amendment by Prof. Kamar. Proceed, Prof. Kamar, to move your amendment.

**Prof. Kamar:** Mr. Chairman, Sir, I beg to move:-  
THAT, Clause 34 of the Bill be amended by inserting at the end thereof the words "or an act, omission or offence of a gross human violation including extra-judicial execution, enforced disappearance, sexual assault, rape and torture"

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment. It further strengthens the proposed Bill.

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

**Mr. Chairman:** Mr. Shakeel, I observe that you are throwing tantrums! What is the problem? Could we have some order here?

**Mr. Shakeel:** Mr. Chairman, Sir, I tried to raise an issue earlier, but you told me to sit down!

**Mr. Chairman:** Yes! That is because you were out of order in the sense that there is a procedure. There is a method to do these things. Acquaint yourself with that! Get to learn it! Get time to read the Standing Orders and everything. Or else, wait and seek clarifications when we get to the clause.

**Mr. Shakeel:** Mr. Chairman, Sir, when I asked for information, you did not bother!

**Ms. A. Abdalla:** Mr. Chairman, Sir, the amendment by our Committee has already changed the sequence of this clause. So, it is important for us to note where the amendment by Prof. Kamar will be put. That is Subclause 3. That is what is irritating hon. Shakeel.

**Mr. Chairman:** Hon. Members, once you get the spirit and the objectives, it is the work of the drafters to do that. We have technicians who do that. Parliament is a law-making body. So, it is not your business to do that. There is a body for that purpose.

*(Question of further amendment,  
that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 34 as amended agreed to)*

*(Clause 35 agreed to)*

*Clause 36*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 36 of the Bill be amended in Subclause (3) by deleting paragraph (a) and substituting therefor the following new paragraph-

(a) inform the applicant that the application does not qualify for amnesty.

Mr. Chairman, I would again seek your indulgence just to indicate the reason for that proposed amendment. If you look at Clause 36, Subclause 3(a), it says:-

"After an investigation carried out under Subsection 2, the Commission may-  
(a) inform the applicant that the application does not relate to an act of gross human rights violation."

In other words, the assumption is that only cases dealing with gross human rights violations are worthy of consideration for amnesty. I would understand where the drafter was coming from. We do not want to flood the Commission with very small and minor cases. So, we want only those weighty ones to be considered. It gives the assumption that you are only forgiven if you are guilty of gross violation, which is really not what the spirit is. For that reason, what we indicated was just to amend it by saying:-

"Inform the applicant that the application does not qualify for amnesty."

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I concur with the proposal.

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

*(Question, that the words to inserted in place thereof be inserted, put and agreed to)*

*(Clause 36 as amended agreed to)*

*(Clause 37 agreed to)*

*Clause 38*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 38 of the Bill be amended in Subclause (3)-

(a) by deleting the words "is an act of gross human rights violations" and substituting therefor the words "qualify for the grant of amnesty"

(b) by deleting all the words appearing after the word "pursued" in paragraph (f)

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 38 as amended agreed to)*

*(Clauses 39, 40, 41 and 42 agreed to)*

*Clause 43*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 38 of the Bill be amended by deleting the expression "consult with the Permanent Secretary to the Treasury and" appearing in Subclause (4).

Mr. Chairman, Sir, this is meant to give complete financial independence to the Commission. However, I am open to any proposal from the Minister.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Clause 43 as amended agreed to)*

*(Clauses 44, 45, and 46 agreed to)*

*Clause 47*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 47 of the Bill be amended in Subclause 2-

(a) by deleting paragraph (c);

(b) by inserting a new paragraph (g) immediately after paragraph (f) as follows-

(g) make recommendations on the mechanism and framework for the implementation of its recommendation and an institutional arrangement in that connection.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 47 as amended agreed to)*

*Clause 48*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 48 of the Bill be amended-

(a) by deleting the words, "establish an implementation committee" appearing immediately after the word "Commission" and substituting therefor the words, "operationalise the implementation mechanism or arrangement in accordance with the recommendations of the Commission under Section 47(2)(f)";

(b) by deleting Subclause (2);

Mr. Chairman, Sir, this amendment is important because we suggested in Clause 47(g) as follows:-

"make recommendations on the mechanism and framework for the implementation of its recommendation and an institutional arrangement in that connection".

The next proposal, which is Clause 48, essentially links to that by indicating operationalising the implementation mechanism or arrangement in accordance with the recommendations of the Commission as earlier proposed.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
in place thereof be inserted,  
put and agreed to)*

*(Clause 48 as amended agreed to)*

*(Clauses 49 and 50 agreed to)*

*Clause 51*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Clause 51 of the Bill be amended by deleting the words, "the disciplinary procedures" appearing in paragraph (b) and substituting therefor the words "a code of conduct".

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
in place thereof be inserted,*

*put and agreed to)*

*(Clause 51 as amended agreed to)*

*Part VI*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, Part IV of the Bill be amended by deleting the title thereto and substituting therefor the following new title-

**PART VI - REPORT OF THE COMMISSION**

Mr. Chairman, Sir, the most important thing that this Commission will do is to come up with a Report. We did not want the Report to be part of the miscellaneous provisions of the Bill.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
in place thereof be inserted,  
put and agreed to)*

*(Part VI as amended agreed to)*

*New Clause 38A*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-

THAT, the Bill be amended by inserting the following new clause immediately after Clause 38-

38A. Where the Commission is of the view that a recommendation for amnesty should be made in respect to an application; the Commission shall submit that the recommendation to the Attorney-General with respect to the institution of, or continuance with prosecution of the case being subject of the amnesty application.

Mr. Chairman, Sir, this is essentially to accept the eminence of the Attorney-General in terms of criminal prosecutions under the Constitution.

*(Question of the new clause proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the new clause. It is in accordance with Section 26 of the Constitution which gives the Attorney-General unfettered prosecutorial powers.

*(New clause read the First Time)*



*(Question, that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause 38A be added to the Bill, put and agreed to)*

*New Clause 50A*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by inserting the following new clause immediately after Clause 50-  
50A. The provisions of the Official Secrets Act shall not apply to any matter that is the subject of inquiry of the Commission under this Act

*(Question of the new clause proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, in view of the nature of the Commission, I welcome the amendment.

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause 50A be added to the Bill, put and agreed to)*

*New Part*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by inserting the following new Part title immediately after Clause 49-

PART VII - MISCELLANEOUS

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

*(Question, that the new part be added  
to the Bill, put and agreed to)*

*First Schedule*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-  
THAT, the First Schedule to the Bill be amended-  
(a) by deleting the title thereto and substituting therefor the following new title-

FIRST SCHEDULE - PROCEDURE FOR  
APPOINTING COMMISSIONERS

(b) in paragraph 3 by inserting the word, "fifteen" between the words "assembly"  
and "suitably" in Sub-paragraph (b);  
(c) in paragraph 5 by deleting the word "six" and substituting therefor the word  
"nine"

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the words to be inserted  
in place thereof be inserted,  
put and agreed to)*

*(First Schedule as amended agreed to)*

*(Second Schedule agreed to)*

*Third Schedule*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-  
THAT, the Third Schedule to the Bill be amended by deleting the word "four" and  
substituting therefor the word "six".

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Chairman, Sir, I welcome the amendment.

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

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Third Schedule as amended agreed to)*

*(Title agreed to)*

*The Preamble*

**Mr. Abdikadir:** Mr. Chairman, Sir, I propose the preamble as indicated to give a framework of reference and a soul to the Bill.

*(Question proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I welcome it and congratulate the Committee for its ingenuity.

*(Applause)*

*(The Preamble agreed to)*

*Clause 1*

**Mr. Abdikadir:** Mr. Chairman, Sir, I beg to move:-  
THAT, Clause 1 of the Bill be amended by deleting the word "Commission" appearing in the short title thereto.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I welcome the amendment.

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

*(Clause 1 as amended agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Truth, Justice and Reconciliation Commission Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**REPORT, CONSIDERATION OF REPORT  
AND THIRD READING**

THE TRUTH, JUSTICE AND  
RECONCILIATION BILL

**Mr. Farah:** Madam Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered The Truth, Justice and Reconciliation Bill and approved the same with amendments.

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

**The Assistant Minister for Foreign Affairs (Mr. Onyonka)** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Madam Temporary Deputy Speaker, I beg to move that The Truth, Justice and Reconciliation Bill be now read a Third Time.

**The Minister for Education (Prof. Onger)** seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read t  
he Third Time and passed)*

**The Temporary Deputy Speaker (Mrs. Kamar):** Hon. Members, the Chair had ruled that we have a Motion of Adjournment by hon. Konchella. Could we have the Minister or Leader of Government Business to move that we adjourn.

**MOTION FOR ADJOURNMENT  
UNDER STANDING ORDER NO.20**

DETERIORATION OF SECURITY IN KENYA

**The Minister for Justice, National Cohesion and Constitutional Affairs (Ms. Karua):** Madam Temporary Deputy Speaker, I beg to move:-  
THAT, the House do now adjourn.

**Mr. Konchella:** Madam Temporary Deputy Speaker, I beg to move that the House do now adjourn under the provisions of Standing Order No. 20(1), to discuss the spiralling state of insecurity in the country.

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

*[Mr. Deputy Speaker took the Chair]*

Mr. Deputy Speaker, Sir, as we talk about security in this nation, we all know as Kenyans that the prerequisite of a nation's development hinges upon security among other factors but security is paramount because as you know, Kenya is one of the countries that depend on tourism for foreign exchange earnings. People who come here should be secure particularly on our roads as they move around the country.

Mr. Deputy Speaker, Sir, we are now gearing towards the Vision 2030. We, as a nation, need to have a 24-hour economy. To go into a 24-hour economy in the state of insecurity that we are in is not tenable. So, this is a serious issue of national concern that cuts across parties. Now that we are under one Government, there is no need to seek political mileage for any reason. Security is a matter of national importance. We were elected as Members of Parliament and we represent thousands of people in our constituencies. They have sent us here to discuss about their security and problems which they go through. Indeed, when I see people dying in my constituency and other parts of Kenya, I feel very sorry for them. Yesterday we saw, on television, the public demonstrating along the road to Narok Town, because a young lady was grabbed and bad things, which I do not need mention here, happened to her. It is an eyesore and something that we must address as a Government, so that Kenyans can move freely on the roads and do businesses in a secure environment.

Indeed, I do not want to condemn anybody or any particular person, because there are very good police officers who are working in this country. They are doing a tremendous job. I think that it is the duty of those in power to ensure that officers who are doing a good job are commended and, indeed, motivated through promotion and other things. We should also give them good equipment to do their work. We, as leaders, are here as the voice of Kenyans. However, when we request that something be done to those officers who do a good job, we are accused of being hecklers. They say that we are just vindictive, or talking about our own people, when some of us who have been in Government, know what discipline is all about. In the military, I commanded more than 3,000 officers. Indeed, I promoted and awarded those who deserved it. So, when I say that somebody is not working, people should believe it because I have managed human beings. As a Military Colonel, I know what it is to be disciplined and do the job accordingly.

**Mr. Deputy Speaker:** Hon. Mover of the Motion, I hope that you understand the rules. You have ten minutes and the Minister also has ten minutes. Every other hon. Member who is contributing has only five minutes.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, as the Mover, I have 15 minutes to move! That is why I am taking this long!

**Mr. Deputy Speaker:** It is a Motion for Adjournment and you have ten minutes to do so!

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I will go fast!

I want to tell the leaders of this nation that the security of this nation is more important than anything in this Parliament. Most leaders politic all over the country, when Kenyans have problems with security, poverty, constitution-making and Internally Displaced Persons (IDPs). This should be the pre-occupation of Members of Parliament and other leaders of this nation because it is what

concerns our people.

Mr. Deputy Speaker, Sir, I want to go to incidents in my constituency which have happened and made me come to the Floor of this House to raise them. I have been talking to the security committee in my own constituency to address the issues that are afflicting my people. They are being killed and they are buried by their relatives and that is the end of the story. We never know of anybody who is arrested or convicted for the crime. These incidents are causing insecurity and fear. We must address this issue.

I will narrate a few incidents which have happened. On 2nd May, 2008, there was a crime of robbery with violence. Money was stolen and a shop was looted and goods taken away. This belonged to somebody by the name of Mr. Tom Kahenya. That was the victim in Nkararu in Trans Mara, Keiyian Division. A gang of five armed with three rifles did the job and walked scot-free. We have even Administration Police officers next to his home, but when they hear the sound of firearms, they hide in their rooms and wait until the criminals have gone. They then go and check what happened, the following day.

On the night of 13th May, 2008, there was also another robbery with violence. Four people got bullet injuries and 12 cows were stolen. This was the home of somebody by the name of Mr. Omureng in the same area of Nkararu. A gang of ten did the robbery and they had four rifles.

Again, on the night of 15th May, 2008, a robbery with violence took place and Kshs40,000 was stolen from a shop that belongs to Sam Nyabuti. They targeted a certain community within that particular area. A gang of five were involved and they had two guns.

On the night of 25th, June, 2008, one person was shot dead in his House while asleep. The late Mr. Peter Nyang'au was a lands officer. A gang of ten people armed with two rifles was involved. I believe that it could be the same gang.

On the night of 18th, a similar incident occurred and one person, Mr. Daniel Amang'a was shot dead in the same place. Also a gang of ten was involved and they had five guns.

On the night of 9th September, 2008, there was robbery with violence and money stolen from a Mr. Peter Kipilo in the same area. A gang of seven armed with two guns was involved.

On the 17th of October, 2008, the criminals hijacked a canter truck and killed three people. They were driving this vehicle and were followed by another vehicle which blocked them. Stones were put on the road. A Mr. Johnstone ole Piyo who was a prominent leader in that place - in fact, he was the chairman of the security committee - was hacked to death together with a retired chief and a Mr. Nyang'osi who was the owner of the canter truck. Now, this is a very sad incident because they hit these people with a big stone, tied their hands and left them for dead. The District Criminal Investigation Officer (DCIO) and police arrived the following day in the morning. They took the bodies including the stone that they used to kill them to the mortuary. I do not know whether forensic evidence from the police should be taken to the mortuary for preservation or the area should be cordoned off for dusting the finger prints. In other words, the officers who are handling security matters in those areas are incompetent and when we report it to the security organs of the Government, it is taken lightly. It is as if nothing happened. I attended the funeral last Monday and more 10,000 people were there. These were very prominent people in that community. Indeed, I had to go there, to stop war between two clans.

Now, on Kenyatta Day, a robbery with violence took place in Onkoiperiai. A 17-year-old boy in Form Three was shot and 20 cows taken away. The gang of 15 who had five rifles did the job. People who are engaging in these incidents are known and I believe they are reported to the Government, but there is no investigation. For the last five years, I have given a list of people with guns. I know what guns they have because I am a ballistics expert. I am well-trained in armaments. So, I know what I am talking about.

I informed the Government that those guns would be in the hands of civilians. It must

remove them! What happened? Nothing has ever been done? The firearms are in the hands of people who use force to get themselves whatever they want. But, now, the guns have shifted to the hands of criminals. The criminals are now using them to terrorise people. It is not just in Trans Mara. Many hon. Members know what is happening now on our highways. I think this is a serious matter that we need to address. I wish to thank the Minister because he is here. It is better for us to address this matter here. Thank you, Mr. Deputy Speaker, Sir.

With those remarks, I beg to move and call upon Mr. Wamalwa to second this Motion.

**Mr. Wamalwa:** Thank you, Mr. Deputy Speaker, Sir. I wish to second this Motion by the hon. Member. This is a very, very important Motion which touches on the security of Kenyans.

Mr. Deputy Speaker, Sir, Chapter 5 of our Constitution, particularly Section 70, provides security as one of the fundamental rights of every Kenyan. Therefore, the right to life, the right to liberty and security of the person under the protection of the law is a right enshrined in our Constitution. It is not a favour that Kenyans are asking for. It is the cardinal duty of any Government to ensure the safety of property and life of every Kenyan.

Mr. Deputy Speaker, Sir, as we speak, the crime rate in this country has really risen. We witnessed during the post election violence what happened in this country. This afternoon, I was talking about my constituency. A farm called Gituamba was attacked on 1st January, 2008. An entire village was wiped out! The following week on 16th, there was a raid on a neighbouring farm, Kalaa Farm, and an entire village was razed to the ground. Three weeks after that, another village called Embakasi was wiped out! I am very grateful that the Minister in charge of internal security, Prof. Saitoti, visited my constituency in the company of Mrs. Mugo and Mr. Gumo. They saw for themselves the situation on the ground.

Mr. Deputy Speaker, Sir, this afternoon, I asked a Question about plans to construct police stations in that area. Up to now, despite the undertaking by the Government to construct police stations in areas affected by violence, none has been constructed in Gituamba, Kalaa and other parts of Trans Nzoia District that were hit by violence and insecurity. As we speak now, insecurity is rising! There was an operation in the neighbouring district of Mt. Elgon, and we commend the Government for the hard work and tough decisions that it had to make, including involving the military, to combat the Sabaot Land Defence Force (SLDF) in that region. But the operation was only on one side. We had a situation where the SLDF operatives fled to Uganda. Many of them fled to Trans Nzoia. As we are speaking now, Trans Nzoia is one of the districts in Kenya that has a lot of guns in the wrong hands. Insecurity has risen! We had village after village being attacked and the most worrying aspect was two weeks ago when a gang that was responsible for the attacks on Embakasi and Kalaa villages was released from police custody under mysterious circumstances! Those fellows have gone back to their areas and are terrorising Kenyan citizens in locations like Kisawai, where we do not have a police post. There is no police post in Kalaa Farm that was attacked. There is no police post or anything in the region. Those people are back, armed and terrorising Kenyans! Mr. Deputy Speaker, Sir, indeed, we are aware of the constraints that the Government has in combating crime in a country with a fast-growing population and a limited Police Force. But we are urging that it is time the Government reviewed its security arrangements. If you look at Officers Commanding Police Divisions (OCPDs), the divisions that were there at Independence are not the same. In Trans Nzoia, we had an OCPD who was in charge of one district called Trans Nzoia. But today, we have three districts; Trans Nzoia West, Trans Nzoia East and Kwanza. Yet, the same man who was in charge of one district is now in charge of three districts. When something happens in Gituamba and he has to rush there, and there is an attack in Kabet in the East, he cannot cope! He is only one man! If anything happens in Kwanza, say in Endebbes or Salama, he is not able to cope. It is about time the Government reconsiders its security arrangements in a way that an OCPD should actually be in charge of a division. That way, each

division in Kenya should have a police station with an OCPD. That should be in the sense of the word, "a division" as it is, with a District Officer (DO). So, we should not have an OCPD commanding three districts! I think it is very, very important.

Mr. Deputy Speaker, Sir, this afternoon, when I was asking my Question, I said that a division called Saboti, with over 75,000 Kenyans, has no single police station! A division called Kiminini in my constituency, with 80,000 Kenyans, has no police station! They all rely on one station called Kitale. The police officers there cannot cope with crime that is rising every day. Guns are flowing in from Mt. Elgon District through the people who are fleeing from SLDF. Others are coming in from Uganda with arms. That is because Mt. Elgon is a border district.

Mr. Deputy Speaker, Sir, I wish to support this Motion because of the insecurity in this country. It is a very, very important Motion.

Thank you, Mr. Deputy Speaker, Sir. I beg to second.

*(Question proposed)*

**Mr. Abdirahman:** Thank you, Mr. Deputy Speaker, Sir. I stand to support this Motion that is of great importance to this country.

Mr. Deputy Speaker, Sir, today, this particular problem of insecurity has turned into a national crisis as we speak. What is being reported by a number of my colleagues may be a very small thing compared to what is happening--- I am not under-estimating it. But I am saying that the insecurity problems have gone to a level that has been unprecedented in the past. I just want to pick some examples of what is happening, with the latest one in Mandera. I know that a number of efforts were made by the local leadership from the region, with the support from the Government. But that has not made much of a change. A number of issues that have come up, including the blockage of roads by militiamen who have taken control of those routes, is something that we cannot comprehend as we speak today.

Mr. Deputy Speaker, Sir, you know very well that a curfew was imposed on Mandera last Thursday. That is something which is history; something which should not have been done in independent Kenya today. The Government should have other alternative options to restore peace and security in northern Kenya.

Mr. Deputy Speaker, Sir, the truth of the matter is that, in most of the areas, particularly in northern Kenya, there is inadequate staffing of police officers, whether it is the regular or administration police officers. There is lack of equipment. You may find that distances that cover a minimum of 22,000 kilometres, like Wajir Town, do not have a single vehicle for a number of divisional police stations!

*(Applause)*

Mr. Deputy Speaker, Sir, that is mainly because adequate resources are not allocated in subsequent budgets that come to this House. That has cost us many lives of people and a lot of property in that area.

Mr. Deputy Speaker, Sir, it is very important for the Government to involve the local leadership to be able to be ahead of these problems. They need to forestal these conflicts, which have become a nightmare to residents of those places. Just yesterday, I was coming from Wajir, and there was a Kenya Air Force plane flying to Mombasa and then back to Nairobi. I asked myself: "Why should this Air Force plane fly to Mombasa and then back to Nairobi, and not fly to Mandera, where there is a serious crisis?"

There is a mismatch of priorities by the Government. Unless we get our priorities right, we



will not be able to protect the lives of Kenyans, be they in Western Kenya or Northern Kenya or in the coastal part of this country.

Mr. Deputy Speaker, Sir, I see this as a very important Motion. It will help the Government to, at least, identify what it should do, so that we can help save the lives of Kenyans that we are losing daily in those areas.

With those few remarks, I beg to support.

**Mr. Kioni:** Thank you, Mr. Deputy Speaker, Sir. I believe that one of the reasons we have security in place is because there is the fear of the law. I believe the fear of the law contributes substantially to the maintenance of law and order in a country, or in any community. Over the past couple of years, we have witnessed situations where, we, as leaders, have shown a total disregard of the existing statutes in this country.

Even as we engage in the debate of amnesty, some people talk about this issue with smiles on their faces, clearly, telling Kenyans: "This thing affects you. It does not affect me." The messages we have been sending to Kenyans are, partly, the reason we are not able to say whether there is any part of this country which is now secure. In the third week of September, in my constituency of Ndaragwa, the Nyahururu-Nyeri Road was blocked for over six hours for the reason that people in my constituency felt insecure. They are, indeed, insecure.

Tomorrow, I will be attending a burial of a person who was slashed last week, and his body put under the bed. The security personnel in that area took more than two days to even respond to that murder. Before the riots came up in Ndaragwa, people had complained of similar incidents. Unfortunately, when the police showed up in one or two incidents, they did say, some people said, "*kazi iendelee*."

Mr. Deputy Speaker, Sir, even during this time of the year, after having gone through what we went through, we as a nation, still have police officers who can say, "*kazi iendelee*", *na hiyo kazi ni kuuana?* So, we cannot say that we will have any security unless there is a quick change of attitude by those who have been entrusted with the responsibility of maintaining law and order.

We still have many Internally Displaced Persons (IDPs) who are still living alongside the roads. They are still very bitter, even as we engage in many debates. Until we, as leaders, get to understand that there is bitterness among our people, the issue of insecurity will continue to haunt us.

The weekend is coming, and I challenge you to take it upon yourselves to look at the faces of some of the people who have been discussing these issues. To them, this is not a serious issue, but rather, a political game.

Mr. Deputy Speaker, Sir, it is important that we, as leaders, take the lead. We need to appreciate and even to show that impunity cannot be a way of life in this country. Until we are able to go over that issue, it will be very difficult to call upon the ordinary people to maintain peace. Since 1992, people have been killed in this country, after every five years. So, people in that part of the country cannot actually say that they expect any security from whatever apparatus.

Whatever it is, from the Floor of this House this evening, the Government needs to do more than just issue statements. We have a section of this country which has given up. We need to do more than just statements that are going to come from the Government side. We have a section of this country that has given up. They will have to take it upon themselves to provide security. Every other day, we have young people who disappear and are found dead. They disappear and what happens next is that their bodies are found in mortuaries. These reports do not help a country to get security. It is upon us as leaders, to take it up. It is upon those in charge of security to respond to these issues properly.

I agree that we need to balance the distribution of security agents in this country. One may think that in Ndaragwa, we do not have issues. However, goats, sheep and cows are taken from

herdsmen at noon.

Mr. Deputy Speaker, Sir, I receive phone calls telling me; "they are now going, can you send people?". But when I call the people in charge, there is only one Administration Police officer. He says, "I have guns here, I cannot leave this point. I am the only one in this station and the guns are with me".

I support the Motion.

**Mr. Affey:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. Indeed, we have a crisis in this country. I want to thank the hon. Member for moving this Motion.

Mr. Deputy Speaker, Sir, I will begin by appealing to the communities in Mandera, particularly those who are fighting now to stop the war. I want to appeal to them to reconcile and stop the conflict. However, as I appeal to them, it looks like there is a reason why people are fighting. It is not possible that people who are neighbours, brothers and sisters wake up and hack each other to death. The Government has a responsibility to protect these Kenyans. I want to squarely put the blame where it belongs. It is the Government's failure to understand the conflict itself.

Mr. Deputy Speaker, Sir, we have an intelligence department, defence department and the Office of the President. It is, therefore, not possible that even after all the Members of Parliament from northern Kenya assembled in Naivasha a few months ago and advised the Government on what should be done, a few months later, the same mistakes are made. We talked about resources and incitement, particularly by leaders. The Government should be responsible for this because the right to protect people's property is vested in the Government. As we debate this Motion, we request the Minister, who in my view has tried, but there is need to do more.

Yesterday, a Government officer got killed. We are told that Administration Police Officers in villages in Mandera are under the mercy of clan militia. If they leave their station, the police officers themselves become victims of those marauding gangs.

Mr. Deputy Speaker, Sir, there is need to re-assess Government priorities. We had requested that the armed forces personnel patrol the entire borderline between Somali and Kenya to stop the infiltration of small arms. However, we do not have them along the border line yet. I think there is need for the Government to do this. This would be a deterrent to anybody who wants to commit crime. We have asked that the Ministry of Water and Irrigation, together with the Office of the President, continue to drill boreholes in places where communities fight over scarce resources. But it seems this is not sinking in the Government. It does not seem to be taken seriously. It is when people die over water and pasture that we have an emergency programme for drilling water, but after we have lost people. To avoid this, I would like to plead with the Minister to co-ordinate with the other departments of the Government to drill as many boreholes as the communities in northern Kenya require. I want to thank the Mover for bringing this Motion.

**Mr. Kambi:** Asante sana Bw. Naibu Spika kwa kunipa fursa hii kuchangia Hoja ambayo iko mbele yetu.

Swala la usalama ni muhimu sana katika nchi hii; ni swala ambalo ni nyeti mno. Ukiangalia yale ambayo yanatukia kila siku na sisi viongozi tunaangalia na hatuwezi kupata suluhisho, basi inaonyesha tuna matatizo. Kuna shida ya vijana. Utapata kwamba wale ambao hufanya uhalifu ni vijana. Shida kubwa ambayo iko ni ukosefu wa ajira. Sisi viongozi inafaa tukae na tupate suluhu, ili vijana ambao hawana kazi, na wanarandaranda, wapate ajira.

Bw. Naibu Spika, tatizo lingine ambalo lipo, hata kama tukiwa na tume, kama hatutakubali, kama viongozi, kwamba kuna matatizo na hatuna njia ya kuyatatua, basi tutakuwa tunaongea kitu ambacho ni kama kumpigia mbuzi gitaa.

Ukiangalia watu ambao tumewapatia kazi ya kutulinda, wana shida. Ukiwauliza kwa nini

kuna uhalifu mwingi, wao hawatakuambia. Tunashukuru kuwa tuna Kamishina wa Polisi ambaye alitoka kwa jeshi, lakini haelewi ile *system* ya polisi. Hata akijaribu, kuna wale ambao wako chini yake, na wanaona kweli anajaribu lakini haelewi kazi hiyo. Sisi kama viongozi tungependelea tuwe na Kamishina wa Polisi ambaye amehudumia katika viwango vya chini, na kupandishwa vyeo, hadi kiwango cha juu; asiwe ametoka mahali pengine. Hivyo tutakuwa tunaanza kuyaingilia hayo matatizo.

Vile vile, motisha ya wafanyakazi ambao tumewaamini kutulinda, ama kulinda usalama, iko chini kwa sababu mishahara yao iko chini. Hawawezi kuzichunga familia zao vizuri. Utakuta kwamba mkuu wa kituo cha polisi, kwa mfano cha Kaloleni, ana watoto kumi walio shuleni, na badala ya kutuchunga, ataanza kutafuta hongo kwa sababu mishahara hautoshi. Haya ni matatizo ambayo inafaa tuyaangalie. Inafaa sisi viongozi tujitokeze ili tuweze kusaidia, kwa sababu tuna matatizo na uhalifu umezidi. Kila wiki, mahali popote ni lazima watu wanauawa.

Ukiangalia wakati mwingine ni sisi viongozi tunaowaambia watu juu ya kabila fulani. Ningependa sisi viongozi tuwe kwenye msitari wa kwanza wa kuwaambia wananchi kwamba hii ni nchi yetu sisi sote, na kuna umuhimu wa kuishi kama ndugu na si kusema kwamba yule ni Mjalu, au kuliambia kabila fulani liende likapige kabila lingine. Kwa hivyo, ikiwa matamshi yetu hayatakuwa ya kuonyesha kwamba sisi ni watu wa nchi moja, ama ni ndugu tutaendelea kuwa na hili tatizo la ukosefu wa usalama. Ningependa---

**Mr. Deputy Speaker:** Order! Your time is up!

**Mr. Letimalo:** Mr. Deputy Speaker, Sir, I want to add my voice to this Motion and cite some security incidences, just to confirm that the security situation is actually out of control.

Mr. Deputy Speaker, Sir, as recent as a week ago, bandits or cattle rustlers attacked the home of an Assistant Minister in the Ministry of State for Provincial Administration and Internal Security, Mr. Lesrima. Cattle rustlers also attacked the residence of retired Army General Lengees and made away with over 100 herds of cattle, even though they were recovered. Bandits killed an officer from the Anti-Stock Theft Unit (ASTU). So, the question is: If a home of an Assistant Minister can be attacked by cattle rustlers; if a retired army general and a security personnel can be attacked and those cattle rustlers go scot-free, what about ordinary Kenyans? How safe are we?

Mr. Deputy Speaker, Sir, as we speak now, bandits are terrorising motorists near the home of the former Speaker of the National Assembly, Mr. ole Kaparo. As we speak now, we do not know how many people have been waylaid and robbed of their property. That is how terrible the situation is, particularly in the larger Samburu District.

Mr. Deputy Speaker, Sir, I also want to say that there is discrimination when it comes to responding to security situations by the Government. On 15th September, Samburu East Constituency was attacked by our neighbours from Isiolo. Four people were killed, five injured and 120 livestock either died in the cross-fire or could not be accounted for. The Government did not investigate that incident, leave alone condoling those people who lost their loved ones. But three days later, when the MP for Isiolo North complained about insecurity in his constituency, the Government, through the Provincial Administration, sent security personnel to Samburu East and forcefully took 120 goats and sheep, allegedly to compensate the animals that were stolen from our neighbours. They did not consult the area Member of Parliament, administrators and the local peace committee members. Those animals were taken by force. We fail to understand: Is Samburu East part of Kenya? Are we not supposed to get protection from the same Government? So, the question is: Why is the Government being partisan when responding to security situations? That is something that needs to be looked into. After all, the animals that were allegedly stolen were returned by the elders. The 24 animals that remained were in the hands of the police. So, instead of making the police to account for 24 goats, they took those animals forcefully. So you fail to

understand why. In fact, the security personnel are worse than the raiders. How do you take animals from innocent people?

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

**Ms. A. Abdalla:** Mr. Deputy Speaker, Sir, I would like to congratulate Mr. Konchella for bringing this Motion of Adjournment. All over the world, the signs of a failing state are three---

EXTENSION OF HOUSE SITTING

**The Assistant Minister for Forestry and Wildlife** (Mr. Nanok): On a point of Order, Mr. Deputy Speaker, Sir. Notwithstanding the provisions of Standing Order No.17, I beg to move:-

THAT, the Sitting of the House be extended until 7.00 p.m. because this is a matter of national importance.

**Mr. Mututho** seconded.

*(Question put and agreed to)*

*(Resumption Motion for Adjournment)*

**Mr. Deputy Speaker:** Very well. Continue, Ms. A. Abdalla!

**Ms. A. Abdalla:** Mr. Deputy Speaker, Sir, I am glad that the Minister of State for Provincial Administration and Internal Security has graced this House. This is because I was going to focus on him a bit in my debate, but now that he is here, it shows that he has taken us seriously.

All over the world, the signs of a failing state are three. One of the signs is increased insecurity which the state organs are unable to manage. The second sign is the use of informal or alternative security operatives such as militia groups because the state security agencies have failed to contain insecurity. The third one is when there are attacks on the defenceless. This happens when, for instance, people steal from others, rape, kill or butcher them. Those are signs of a failing state. I am glad that the Minister of State for Provincial Administration and Internal Security and his Assistant Ministers are here. It would have been even better if the technocrats in that Ministry, who are supposed to have the right response mechanism, would have been sitting there to hear what we have to say.

*(Applause)*

Mr. Deputy Speaker, Sir, this matter is much bigger than insecurity and people are dying. It is a sign that we are heading towards a failed state. This is not a matter that we should just debate for two hours and end it there. I would like to tell the Minister that mobilising members of a particular community when there is insecurity and promising the world is not enough, yet he does not deliver. He needs to take a proactive approach, for example, call us for a *Kamukunji* so that we can discuss this matter deeply. The ten minutes that I have been given now to discuss this matter is not enough because I will not be able to point out areas where he has failed. I will not, for instance, be in a position to point out areas where the police force is failing and where the administration is unco-ordinated. We have cases where the Assistant Minister, Ministry of State for Provincial Administration and Internal Security had people killed in his compound. Is that an indication that we have a safe state when people are killed in the compound of an Assistant Minister?

This is not a light matter. It is not a mere insecurity issue. It is a State issue. Because the issue is about how the State machinery is responding to matters of insecurity, we need to get a more comprehensive approach by focusing on this matter much closer than we are doing now.

**Mr. Deputy Speaker:** Your time is up, Ms. A. Abdalla!

**Mr. Mututho:** Mr. Deputy Speaker, Sir, may I, first of all, thank the Mover of this Motion because it is a very important one. I would also like to confess that, perhaps, among the sitting hon. Members, I am the only real victim of crime with two bullets on the left side of my chest.

**Hon. Members:** *Pole! Pole!*

**Mr. Mututho:** If it would have been in order, I would have shown hon. Members, but I will not. That explains how serious this crime is. I was hit twice by a thug on Biashara Street. I thank the police because they saved my life. I am alive and that is why I am contributing here today.

*(Applause)*

Mr. Deputy Speaker, Sir, having thanked God and the police, I would like to say that it is not good for us to continue complaining. These complaints are all over.

Mr. Deputy Speaker, Sir, I would urge this House to consider something very noble. The police claim to lack transport constantly and every day. If we could allow the police to import duty-free vehicles which are also equipped with police gadgets and are unmarked, they would respond on site very fast. If they also had the radio communication which is owned by the State, then at any point where there is trouble, a thug will know that more than 30 police officers are about to come. They should be allowed the freedom to move with the vehicles with their families and everybody else just like they do in the United States (US) and other countries.

Mr. Deputy Speaker, Sir, this House may not be aware that hon. Mureithi of Ol Kalou almost lost his life the other day. Thugs shot many times at his bodyguards and they are still in hospital. I want to tell you that the three thugs had very modern weapons. If truly, the three thugs shot at a poor driver and bodyguards, that shows they have hit a very high level of sophistication. To this end, I would come again to another very humble solution. Let us not criminalise our mind to the extent that we do not trust our watchmen who guard our lives and look after our property. In Rwanda and Uganda they carry guns. Why not in Kenya?

Mr. Deputy Speaker, Sir, on roadblocks, I know the Minister may not like this, but please remove all of them. Mount roadblocks only when there is an emergency. There is no need to delay people's time. Mobilise your police so that they can mount roadblocks within an hour and then demount them depending on the situation, instead of them being turned into cash points. I am saying this as a regular traveller. You know between here and Nakuru, sometimes we have 23 roadblocks or more on that super highway.

The other issue I would like the Minister to address is these extra-judicial killings. Please, arrest these people because when you kill them, you induce a lot of hatred and that in itself promotes crime. I thank the police in Naivasha because they arrested one man-eater who has been able to give a lot of information to them. As we are talking, the police in Naivasha have been able to contain all the *chokoras*. I was informed this morning that *chokora* is not an English word but we do not have those vampires any more in the streets of Naivasha. It is now again a "happy valley". They were able to do that because they did not kill the suspects. They were able to get all the crucial information from him. I am pleading with the police not to kill the suspects but just arrest them so that we can be able to know the root cause and what is ailing these people. If that happens, then they are going to arrest very many more people.

For those people in the Judiciary who collaborate and frustrate their efforts, allow the police to arrest them also, like they did to a Judge the other day. Let them have the power to arrest them, so that we can have a peaceful society.

Mr. Deputy Speaker, Sir, Officers Commanding Police Divisions (OCPDs) should have

their original powers. This idea of waiting for the Commissioner of Police himself to sack a police officer should cease. If the OCPDs are competent, let them also be in charge of their own stations and also be responsible. The National Social Intelligence Service (NSIS) should be able to share intelligence reports with the OCPDs.

With those remarks, I support the Motion.

**Mr. Maina:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

We are now talking about beefing up of security because the issue of insecurity has reached a certain level in this country. I want to draw the attention of this House to where Kenya has come from. I keep wondering how violence could start, say, in Eldoret, and spread throughout the country and even reach major towns such as Nairobi and Mombasa.

The insecurity that we are witnessing in this country today is not a casual affair. We must say where that progression started from. I want to say from the Floor of this House that we have created a very dangerous situation in this country. Starting with poverty, it breeds all kinds of evil, including insecurity. We need to be aware that our young men in this country are jobless. Most of them have no ways of survival. This is something which needs to be addressed.

Mr. Deputy Speaker, Sir, from my own thinking, this country needs to address the issue of economic growth. Where is the economic growth directed? We can talk of economic growth, but as long as that economic growth is not home grown, or the real people of the country are not involved, and no employment is being created, but instead, people are being retrenched, then we breed the kind of insecurity we are talking about.

I have a bit of commendation to give to the present people running the Ministry of State for Provincial Administration and Internal Security. During the post-election violence, starting from Eldoret and beyond, violent groups of people were at large. They had taken over the country. At least, they have now been put into check. We can now say we are where we are. So, let us try to ask where it all started.

Mr. Deputy Speaker, Sir, we, as leaders, need to evaluate ourselves. There is no better way of breeding insecurity in the country than when we go on creating hatred among members of various communities. One way of having peace is having the people living peacefully. So, let us also start by, first of all, trying to create peace among our people. Let us try to address poverty in this country because, I believe it, is the real cause of insecurity.

We cannot maintain security by arming policemen with better guns, not even if we put battle tanks on the streets. We can only sustain peace in the country when everybody can afford to have a meal. I am not sure whether that is happening.

Mr. Deputy Speaker, Sir, I will now turn to the security agents. Something has gone really wrong with our security agents. I am aware that - and we have witnessed some instances - orders can be issued, but sometimes, they are never followed. Sometimes somebody is attacked, and an order is issued. The culprit could be a thief, but nothing happens to him.

We also witnessed such incidents during the post-election violence that occurred in January/February. Therefore, I call upon the Minister to check whether security forces in this country are working in accordance with their standing orders. I want to say that they are not. Let us not try to think in terms of buying more guns and employing more policemen.

Mr. Deputy Speaker, Sir, the way to create security is to, first of all, have peaceful co-existence among communities. Leaders should preach peace among communities and then the Government should address the poverty situation in this country.

With those remarks, I beg to support.

**Mr. Duale:** Thank you Mr. Deputy Speaker, Sir. I want to thank the Member of Parliament for Kilgoris Constituency, Mr. Konchella for bringing this Motion to this House today.

I know we are talking about the security of this nation. The security of this nation is paramount and significant to any other sector of development. However, I would like to say that the security of this nation is a broad term. The leadership of this House has a fundamental duty to take part and play its role. The security agents in this country have their own fundamental and significant roles. It is important to say it here, that this country must invest in security. This country must put security as a priority.

Mr. Deputy Speaker, Sir, if I pick on the hot spots in this country, we are talking of, Samburu, Laikipia, Isiolo, Mandera, Trans Nzoia and Mt. Elgon. We are talking about chronic and sensitive regions of this country. We are talking about carjackings that take place along the main highways.

Security must be looked at regionally. The insecurity that we have in the ASAL is mainly resource based. It has to be addressed differently from the insecurity that you find in central Kenya or the coastal region. The Ministry, therefore, must have its priorities right and invest in security.

Mr. Deputy Speaker, Sir, when we talk about livestock or cattle rustling, we know the communities that practice this. We must find a homegrown security solution. We must create access. We must invest in these regions in terms of infrastructure, education and communication. We know that there is inadequate policing and the Ministry concerned must face this squarely. We are talking of Kitale Police Station manning the whole of Trans Nzoia District. We are talking of Kenyans travelling a distance of 200 kilometres to access a police station. This country must invest in fighting illicit arms. This country must come up with a definite regional policy for the failed States around our country.

Mr. Deputy Speaker, Sir, the Ministry of Foreign Affairs must give the Kenyan position on the conflict in Somali. Unless we do that, we might be seen as being partisan in conflict. We know that the regions that border Southern Sudan, Ethiopia and Somali are victims of cattle rustling. I, however, want to put it very clearly here that the leadership in this House and more so, the leadership in Mandera and northern Kenya, Samburu, Isiolo and Laikipia must take the lead. They must lead their people from the front. They must not be taken hostage by top businessmen and their clans. They must be ready to face the bullet. They must be ready to tell their people that it is in their interest and the interest of this country that security must be maintained. As we sit here and debate this crucial Motion, we should not blame the Ministry of State for Provincial Administration and Internal Security. As a leader, I can contain what is going on in Dujis. I have a role to play in making sure that the people of Dujis maintain security. It is the business of the Government of Kenya to provide security for every Kenyan. As we sit here, I want to urge my colleagues that, as Members of Parliament, we have a role to play.

With those few remarks, I beg to support.

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to contribute to this very important Motion. First of all, may I take this opportunity to thank Mr. Konchella for bringing this Motion to the House. The issue of insecurity is getting out of hand in this country. For the second time, Parliament has adjourned to discuss the security situation in the country, which is very worrisome. I must mention that, while the Minister of State for Provincial Administration and Internal Security is doing a lot of good work, there is a serious problem related to the management of the security forces in this country. I must mention that the way the police is run in this country is what is giving us problems. When you have a Police Commissioner, who has no regard for the rule of law, or who has no respect--

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): On a point of order, Mr. Deputy Speaker, Sir. I do not want to interrupt the hon. Member, but is it in order for the hon. Member to launch an attack on a person who cannot defend himself here?

**Mr. Deputy Speaker:** Hon. Member, I hope you understand the rules of this House.

**Mr. Kapondi:** Mr. Deputy Speaker, Sir, I do understand them. We should not be reduced to a talking show in this country. Every now and then, whenever there is a problem, we adjourn the business of the House to discuss the security problem, and shortly after showing a lot of concern that we are going to address issues, nothing happens. After some killings, like what is happening in Mandera currently--- Is it because that area is far-flung, and there is no media attention and so nobody is bothered about it? If the police, who are mandated by law to take charge of our internal security, are overwhelmed by the insecurity in the country, why can the Government not deploy the military to those areas? There is no secret about this; the Arid and Semi-Arid Areas (ASALs), or the pastoralist areas, have been left on their own. These are vast areas that require critical monitoring.

The Government has always been saying that it is on top of things whenever insecurity erupts in parts of the country. But that is not demonstrated by the speed at which they move to contain situations. For instance in Mt. Elgon, there are thousands of security personnel, and I am happy that security has been restored in Mt. Elgon, but why can the same not be done in other areas? What is special in Mt. Elgon, where you over-concentrate because of insecurity. You have over-concentrated security forces, security has been restored, which is a good thing, but the Government is not prepared to do the same in pastoralist areas in this country. Does it mean that the pastoralists are not important? Are they not citizens of this country? Do they not pay taxes? Is their security not paramount or a concern of our State agents? If, for instance, communities plan to raid each other, the magnitude of such a plan itself cannot go without catching the attention of security agents in the country.

If, for instance, communities plan to raid one another, the magnitude itself cannot go without catching the attention of the security forces. But the security forces leave it to happen and then pretend by saying: "We are in hot pursuit of the raiders. We have recovered 100 animals. We have killed three bandits." Thereafter, the story ends there. The Government should give full attention to all areas in this country. The military should be deployed in those vast areas so that, when the pastoralists are taking care of their animals, they do it in a secure environment. That way, our porous borders, where small and light weapons infiltrate into this country, can be checked. Otherwise, we shall be adjourning the business of the House to discuss insecurity every now and then. I request the Minister to take decisive action and take charge of the Ministry.

With those few remarks, I beg to support.

**Mr. Deputy Speaker:** Mr. Abdikadir, you will have the last one because Mandera is burning.

**Mr. Abdikadir:** Thank you, Mr. Deputy Speaker, Sir. I would like to congratulate the Mover of this Motion, Mr. Konchella, for bringing it before the House. This is, actually, a very urgent matter.

As we speak now, Mandera East is under a curfew. Our people are not able to do their business, even during day time. In the last 30 days, 25 people have been killed. A village by the name Gari has been attacked twice by a militia, and no one has been arrested up to this time. Among the people who have been killed are two administration police officers. Three police officers were also injured three days ago and, up to now, no arrest has been made.

Mr. Deputy Speaker, Sir, the militia has been attacking innocent Kenyans. They have been mounting road blocks along Elwak-Mandera Road and they cross with impunity from the borders of Ethiopia and Somalia. The situation is worsening and the people of Mandera are living with a lot of fear. Business has not been going on. Vehicles have not been able to move from Elwak to Mandera. That means that there has been no economic activity going on in Mandera for the last four days or so. Why is that happening? I think as local leaders, we have tried our best. We have



been together; we have been consulting; we have been making statements together; we have been visiting the area and we have played our role.

Although we appreciate that the Government has also done its part, we need action on the ground. We need those militias to be tackled fast and properly, so that innocent Kenyans, who are suffering, are protected and their lives secured. I wish to ask the Minister to act very fast so that those militias are stopped. I cannot understand why militias who cross from Ethiopia and Somalia can come to Kenya, act with impunity and terrorise the residents of Mandera District. I, therefore, ask the local leaders to assist us in curbing that situation. We have been working together as Members of Parliament from the area. We have been talking to our elders. But we need the Government to act as fast as possible.

Thank you, Mr. Deputy Speaker, Sir.

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo):

Thank you, Mr. Deputy Speaker, Sir, for giving me this time to support this Motion. I have a few complaints to make. One of the things that people from insecure areas fear is the training police officers undergo. The police are trained to torture people in order to make them surrender. They even rape! I would like the Minister to change the training that is provided in Kiganjo Police Training College.

There is poor infrastructure in areas where cattle rustling is rampant. In areas where there is insecurity, you will find that the District Commissioner (DC), the Officer Commanding Station (OCS) have no vehicles and yet, we expect them to chase thieves. Even in the urban areas, how do you expect police officers in Peugeot 504 car to go after a gang of thieves in a Mercedes Benz? We need to equip the police with proper vehicles.

Mr. Deputy Speaker, Sir, for insecurity to be contained, we must get local solutions. That means that if we have to solve the problem of insecurity in Mandera, we need to get a man from that area to be, for instance, the DC there. This is because such a person is in a position to understand the pain incurred as a result of loss of cattle. The NSIS and CID officers who are sent to those areas do not even understand the local languages. Sometimes, the old men in the local area use proverbs in their speeches and sign languages which these officers do not understand. When Members of Parliament try to report cases of crime, they are asked: "Who told you?" The DCs also need to work with the politicians on the ground.

**Mr. Deputy Speaker:** Mr. Minister, do I understand that you are donating three of your ten minutes to Mr. Nanok?

**The Minister of State for Provincial Administration and Internal Security** (Mr. Saitoti): No, Mr. Deputy Speaker, Sir. I have not said that. I have broad issues to address here---

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I do not wish to interrupt the Vice-President---

**Mr. Deputy Speaker:** He is not the Vice-President!

**Dr. Khalwale:** I am sorry, with due respect. I do not wish to interrupt the Minister and, again, I do not wish to be seen to drive the Chair.

Communities in this country have representatives in this Parliament. They all have unique insecurity problems which we would like to take advantage of this kind of Motion to inform our good Minister. My point of order is that the Chair should be able to balance speakers across communities! This is because we have so many communities here. We have the Luo community, the Luhya community---

**Mr. Deputy Speaker:** Order, Dr. Khalwale! You are out of order! You have no right--- It is a discretion and a privilege to catch the Speaker's eye. If you had any sensitivity in what is happening in the country, you would have seen and respected the wisdom that the Chair has used in allocating time to Members of Parliament whose areas are burning.

Dr. Khalwale, for the last time, that is a frivolous point of order and the Chair will not entertain that kind of attitude. Do not get the impression that any Member of Parliament is any more equal than other Members of Parliament. We have 222 Members of Parliament here and they all enjoy the same rights in this House. You are just one of them and you do not represent 20 per cent or 50 per cent of the House here. You must respect that. You must also respect Members of Parliament and the institution of Parliament and its traditions.

Proceed, Mr. Minister!

**The Minister of State for Provincial Administration and Internal Security** (Mr. Saitoti): Well, thank you, Mr. Deputy Speaker, Sir. Let me begin by acknowledging the fact that this particular Motion is extremely important in the sense that, indeed, security is very vital for us, as human beings, and more so, as Kenyans. I would like to assure the hon. Member that I have taken very seriously, whatever has been said here.

It is important to tell hon. Members that I concede that since the time we brought down the post-election violence, we have begun to see a resurgence of cattle rustling. At that time of post-election violence, we did not have much of the cattle rustling. In fact, it was almost nil. It is equally true that we had brought down all these minor crimes. We monitor carefully, the trend of crime in this country.

Mr. Deputy Speaker, Sir, let me however, also state a few things which hon. Members should understand. It is true that if you compare this period now to the one of last year, you will find that crime has actually come down. We have come a long way. This country was burning. I got into this Ministry sometime in January when you could hardly be able to move freely in Nairobi, and neither could you be able to travel all the way to Nakuru or to the Ugandan border. We had a very serious problem. About 1,300 people died. Destruction of property occurred. The police are not perfect but it is also good to acknowledge them. These people worked extremely hard to bring us to a state of normalcy and there are a number of them who died. I know they are good in punching people but as hon. Members, let us also understand that they are also good people who ensure that things are going on smoothly.

Mr. Deputy Speaker, Sir, there are a number of things that have been stated here. I want to agree that we have got a problem of cattle rustling. It is this problem that prompted me to urge the hon. Members from the cattle rustling areas to meet. Indeed, we had a two-days meeting out in Naivasha. We agreed on a number of broad issues. We are looking into them and I am going to be calling the monitoring committee that we set up, sometime next week, so that we can go one by one. The agreement there was that the Government would do its job because that is our obligation but at the same time, we as leaders and Members of Parliament and other Government officials, have got a very major role to play in advocating for our own people not to fight because this cattle rustling is between the communities. We have met them. The problem is that one leader will come to me as a Member and say that his or her people are being attacked by such-and-such a community. We take action and then the other one comes and says the same thing.

I am supposed to go to Wamba and Isiolo tomorrow. We sat down with the hon. Members from both sides and agreed on the fact that we better bring the people on the table and make sure that we are able to broker peace. Once we did that, another problem arose. The hon. Members who were supposed to have met in Nanyuki last Friday did not show up. Those are the complications that hamper us when we are dealing with cattle rustling.

Mr. Deputy Speaker, Sir, currently, we do have a very major problem out in Mandera. Let me begin by thanking the hon. Members from the North Eastern Province because as the signs were beginning to show of an evolving problem in Mandera, they came to my office. They even brought the elders from the two communities. We talked and we were able to broker peace. It was for us as a Government to try to address what appeared to be causative problems. As we were

moving there, unfortunately because in this particular game, there are also errant actors, they moved in and created a problem and, therefore, that is why we have a problem today.

The problem is that we have two clans who are basically fighting and almost want to destroy each other. Each clan is going across the neighbouring country and looking for militia from there to come here and assist them. It is true that there are some people who have lost their lives. Indeed, it is true that even a military officer lost his life.

Mr. Deputy Speaker, Sir, I want to assure this House that having realised that we needed to beef up the security forces, we have taken a very firm decision. Not only have we increased the regular police, the Rapid Deployment Unit (RDU) and the General Service Unit (GSU), but we have even brought in the army. The army is there and more are being sent out there. I want to assure those hon. Members that you will see what is going to happen in the next one or two days. We are going to ensure that the menace is going to come to an end. However, even much more important, we cannot allow militia or mercenaries from any foreign country to come and operate in this country. I want to assure the hon. Members that in a matter of days, those militias who have come here will be expelled out of Kenya. We will send a very strong message that Kenya is not a place for all these kind of people to play around. This is important because those people bring in their arms from across the borders, including Somalia and Ethiopia.

Let me tell you the latest information. Our officers were able to capture a number of those people. But more important, some five Bazooka's were seized.

*(Prof. Saitoti coughed)*

**Hon. Members:** Water! Water!

**The Minister of State for Provincial Administration and Internal Security** (Prof. Saitoti): Do not worry about water. I will get better.

*(Prof. Saitoti took a glass of water)*

Mr. Deputy Speaker, Sir, we do not have Bazookas here, but these people bring them. It means that they mean business. But I want to assure this House that we will take action.

When we faced the challenges of Mt. Elgon, we also moved very fast. I am very happy that hon. Kapondi did inform this House that there is enough security there. Had we not taken a very firm position, I can assure you that the situation would have been very bad there. I am very happy that hon. Kapondi says it. So, there are a number of things that we will do.

Thank you, Mr. Deputy Speaker, Sir.

### ADJOURNMENT

**Mr. Deputy Speaker:** Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 28th October, 2008, at 2.30 p.m.

The House rose at 7.05 p.m.