

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 4th November, 2008

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

### NOTICES OF MOTIONS

**Mr. Affey:** Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motions:-

INCREASED BUDGETARY ALLOCATION TO  
MINISTRY OF DEVELOPMENT OF NORTHERN  
KENYA AND OTHER ARID LANDS

THAT, noting the present and the continued marginalisation of northern Kenya; aware that because of the prolonged neglect, the entire region has lagged behind in development compared to other parts of Kenya; cognisant of the fact that inhabitants of the region are taxpayers with equal human and legal rights like other Kenyans and entitled to all the services provided by the Government including security, infrastructural facilities such as roads network to open up the region; appreciating the efforts of the Grand Coalition Government in establishing the Ministry of Development of Northern Kenya and Other Arid Lands as a strategy to address this historical imbalance; this House resolves that the Minister for Finance increases budgetary allocation to the Ministry of Development of Northern Kenya and Other Arid Lands to, at least, 15 per cent per annum for the next decade in line with the Government recent approach towards development and transformation of this region.

ROTATIONAL SITTINGS OF PARLIAMENT  
IN VARIOUS REGIONS OF KENYA

THAT, aware that Section 58(1) of the Constitution of Kenya provides that each Session of Parliament shall be held at such a place within Kenya and shall commence at such a time as the President may appoint; considering the growing public urge and the need to demystify Parliament for the electorate; cognisant of the fact that parliamentarians represent the aspirations of the entire country; conscious of the need for Members to have first-hand account of the regional development challenges and problems that the local people grapple with on a daily basis; this House resolves that the House shall hold rotational sittings in various parts of Kenya.

INTRODUCTION OF CONSTITUENCY  
REVOLVING FUND BILL

**Mr. Muriithi:** Mr. Deputy Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, appreciating the fact that rural enterprises fail to take off due to lack of seed capital; further aware that pooling of funds is one of the means of achieving community development; noting the inherent fund raising potential among ordinary Kenyans in rural and urban areas as evident from the over-subscription of the Safaricom IPO and other IPOs; this House do grant leave for the introduction of a Bill entitled "the Constituency Revolving Fund Bill", to establish a constituency-based non-lapsing enterprise fund to provide credit to small enterprises at constituency level on the basis of group guarantee, collateral and other means of securing the funds, establish the Management Board, the Board of Trustees and matters connected therewith and incidental thereto.

**QUESTIONS BY PRIVATE NOTICE**

KILLING OF POLICE CONSTABLE  
MURIUKI KIRAMANA

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

(a) Could the Minister explain the circumstances surrounding the shooting to death of an unarmed Police Constable Alex Muriuki Kiramana at Nthambiro Shopping Centre, Igembe South District, on 3rd September, 2008?

(b) Could the Minister explain the status of the investigations into the killing so far, and state what action he will take against the culprit(s)?

(c) When will the Government compensate the family of the deceased, considering that he was the sole bread winner of a young family?

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

(a) The alleged Police Constable No.70025, Ex-P.C. Alex Muriuki Kiramana, was not a serving police constable on the day he met his death. He had earlier been struck off the payroll after he was declared a deserter from the police force on 21st November, 2002.

(b) Following the shooting to death of the suspect, a police file Maua Criminal.147/116/2007 and Inquest File No.14/2008 were opened. The matter is still under investigation pending the arrest of the escaped suspects. The Magistrate will peruse the Police Inquest File No.14/2008 and rule on the circumstances which led to the death of the suspect.

(c) The Government is not contemplating paying the deceased unless so directed by a court of law.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, from the Assistant Minister's answer, there are a lot of contradictions. On the one hand, he has said that Mr. Muriuki was declared a deserter and on the other hand he has said that he was a suspect.

Once an officer deserts duty, does that call for him to be extra-judiciary terminated? Is it the policy of the police force to kill their officers who desert duty? This man was not armed. He was at a shopping centre doing his business. Why was it not prudent to arrest him and arraign him in a court of law if he had committed any crime?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, the information I have is that on 3rd September, 2008, at about 3.00 p.m. at Nthambiro Shopping Centre, the said suspect, Alex Muriuki Kiramana and three others had robbed Ms. Margaret Kiambii of a mobile phone and Kshs5,000 while armed with a pistol. I do not know whether Alex was doing the business of robbing, because he was found with a pistol. The complainant reported the robbery to officers on patrol duties, who responded quickly. The complainant pointed out the suspect.

My officers arrested the man on the spot. On arrest, he was found with a toy pistol, which he removed and threatened the officers with. That is how he met his death. I want to advise my colleague that the majority of those who desert duty do other businesses as he has mentioned. However, I would like to ask him to caution those who have been out of the police force payroll not to engage in robbery. Otherwise, my officers will catch up with them and they will be arrested.

**Mr. Linturi:** Mr. Deputy Speaker, Sir, incidentally, this man met his death in my constituency at Nthambiro in Igembe South. In September, I asked a Question in this House about the steps the Government was taking to arrest insecurity in the area. The Assistant Minister promised to tour my constituency, among other areas.

**Mr. Deputy Speaker:** Hon. Linturi, it is Question Time! You need to ask a supplementary question. Do not give a statement!

**Mr. Linturi:** Mr. Deputy Speaker, Sir, now that insecurity is so rampant in this area, what steps is the Assistant Minister taking to solve this problem once and for all, because our people are suffering? When will he be in a position to tour my constituency, as earlier arranged?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, indeed, it is true that I was supposed to tour hon. Linturi's constituency. However, the dates which we had agreed upon were deferred because of the absence of the hon. Linturi. He was out of the country.

However, Mr. Deputy Speaker, Sir, the Government is going to deal with cases of insecurity decisively without any favour. Currently, we are increasing the number of security officers in the areas which are prone to insecurity.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, this is a cover-up! The same people who killed this person are the ones who have given the Assistant Minister the information. Why is it necessary to have an inquest if the circumstances of the killing and the killers are known? Why can the Assistant Minister not take them to court? They are known!

**Mr. Ojode:** Mr. Deputy Speaker, Sir, my colleague has accepted that the fellow was involved in some business. It is the type of business that he was involved in which the hon. Member does not know. I am telling him that this man was involved in a robbery. We will never, as a Government, accept that kind of business!

**Mr. Ruteere:** On a point of order, Mr. Deputy Speaker, Sir. When did robbery become a business?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, Alex was killed because he was a robber! However, we should wait and see what the inquest will come up with.

**Mr. Ruteere:** On a point of order, Mr. Deputy Speaker, Sir. How can the Assistant Minister say that this man was a robber before the inquest proves that he was one?

**Mr. Deputy Speaker:** Order! When the Government believes that somebody has committed a crime, he is a suspect; according to the Government, he was a robber. It is the court which should prove otherwise.

#### USAGE OF NON-STANDARD METHODS OF WEIGHING MAIZE IN KIMILILI

**Dr. Eseli:** Mr. Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister

for Trade the following Question by Private Notice.

(a) Considering that most farmers from Kimilili Constituency are small-scale maize farmers, is the Minister aware that grain traders have been short-changing the farmers by using non-standard methods of weighing the grain, also referred to as "*gorogoro*", resulting in losses to the farmers?

(b) When did the Department of Weights and Measures last approve standards for weighing maize and what are these standards?

(c) What action is the Minister taking to protect the maize farmer?

**The Assistant Minister, Office of Deputy Prime Minister and Ministry of Trade (Mr. Omingo):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that some grain traders have been short-changing the small-scale farmers in Kimilili by using non-standard methods of weighing grain.

(b) The Department of Weights and Measures last approved standards for weighing maize vide Legal Notice No.230/1993. Under the Weights and Measures Rules, (Scales and Labelling of Goods), the Fourth Schedule, maize is sold by weight or measures of capacity or volume. The authorized standard capacity measures are 20 litres, 10 litres, five litres, two litres and one litre. When sold in weight, approved and verified weighing machines are used.

(c) To protect consumers and farmers, all weighing and measuring equipment is verified annually. Verification in Kimilili Town was carried out on 15th September, 2008. Routine inspections are always conducted to ensure that equipment is not tampered with.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, that answer is not quite sufficient. We have been informed that the equipment was checked on 15th September. These are maize traders who are found all over the constituency. I do not know whether all the equipment that is being used has been checked. If that not been checked, what is the Assistant Minister doing about that? These people are carrying maize out of the constituency and impoverishing the farmers. It is important that we protect those farmers.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, I appreciate the passion with which Dr. Eseli is concerned about the small-scale maize farmers. My Ministry is given the mandate to facilitate trade. For sure, we will not sit back and watch our traders being exploited. Therefore, we have set up some enforcement agencies and we have taken about five people to court.

I wish to seek the indulgence of the House for us to be provided with information. Basically, people are exploited because of lack of information about what is happening in the market. The Ministry is trying to establish business solution centres in every district. We have so far established such centres in Bungoma and Siaya. But everything is actualised, and I would like the hon. Members to avail information.

By way of confirmation, we have five cases already being prosecuted. In fact, all of them have pleaded guilty and have been fined Kshs10,000 each. The hon. Members should help us by disseminating information for the purposes of protecting our traders from exploitation. An example of these cases is Criminal Case No.888/08, which was completed and the offender pleaded guilty and was fined Kshs10,000. The other one is Case No.889/08, where the first accused pleaded guilty and was fined Kshs10,000. There is also Case No.890/08, where the first accused was fined Kshs10,000. There is also Case No.891/08, where the accused pleaded guilty and was fined Kshs10,000.

The only problem is that the Ministry cannot be all over. Of course, the Ministry has a skeleton staff. We will lay down the rules and ensure that the information is availed to our traders. We have not closed our eyes in terms of protecting our traders. That is the business of the Ministry.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, I thought I was giving the other hon. Member a chance because I had asked the following question---

**Mr. Deputy Speaker:** Proceed, Dr. Eseli, and ask your question!

**Dr. Eseli:** Mr. Deputy Speaker, Sir, this is a very touchy issue for people from western Kenya. We beg your indulgence to allow the other hon. Members to also ask their questions.

**Mr. Deputy Speaker:** Proceed and ask your question! Every Question is very important!

**Dr. Eseli:** Thank you, Mr. Deputy Speaker, Sir. Let me say this to the Government: "Look not at what the people have done for the Government, but look at what the Government has done for the people." That *gorogoro* is impoverishing Kenyans. When will the Government ban the use of the non-standardised container called *gorogoro*?

**Mr. Omingo:** Mr. Deputy Speaker, Sir, from the standpoint of the Ministry, *gorogoro* is illegal and that is why these five cases have been taken to court. Most of them are *gorogoro* type of traders. If the hon. Member could provide us with information, we could be able to be of assistance to the traders. Traders are exploited because sometimes they are desperate and cannot get to the market because of the poor road infrastructure which the Government is addressing and poor flow of information. That issue is being addressed. It is illegal and that is why these five cases are being prosecuted in court.

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

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I am standing to ask a supplementary question to that Question.

**Mr. Deputy Speaker:** Ask Question Number 3 by Private Notice!

**Mr. Sambu:** With due respect, Mr. Deputy Speaker, Sir, I would like to ask a supplementary question, if you will allow me.

**Mr. Deputy Speaker:** Disallowed! Mr. Sambu, please, ask your Question No.3!

GOVERNMENT SUPPORT TO COTTON  
FARMING/DEVELOPMENT

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

(a) What steps is the Government taking to support cotton farming and development in the same line as coffee and tea farming and to operationalize the Cotton Act Cap.335 which established the Cotton Development Authority?

(b) When will the Minister effect the rehabilitation and operationalization of the Kisumu Cotton Mills, to promote cotton processing and marketing as part of the cotton industry development and sustainability?

**The Assistant Minister for Agriculture (Mr. Ndambuki):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government has put the following measures in place to support cotton farming under the Cotton (Amendment) Act:-

(i) Established the Cotton Development Authority.

(ii) Funded Cotton Development Authority since its inception as follows:-

Year 2006/2007 - Kshs250 million; Year 2007/2008 - Kshs241 million and Year 2008/2009 - Kshs200 million

(iii) The Government has also bought five vehicles for cotton promotion activities.

(iv) Provision of free cotton seed for planting to farmers, a total of 2,725 metric tonnes valued at Kshs48.9 million between 2006 and 2008.

(v) Initiated certified cotton seed multiplication programme with KARI through Mwea and Kibos centres, worth Kshs70 million.

(vi) Established demonstration centres on improved husbandry practices in all cotton

growing areas. A total of 30,000 farmers have been trained.

(b) The mill is privately-owned; so the Government cannot do anything.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, I am happy to hear that the Cotton Development Authority has been established and also about the amount of money that has been allocated for this development. We do not seem to hear about this Cotton Development Authority. Nobody seems to know a lot about it.

Could the Assistant Minister tell us where the headquarters of this organization is, who the managing director is and how many employees are in this organization? Could he also produce the Strategic Plan for 2008/2009?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, those are too many questions but I will try to answer one. In September, we took a house which was grabbed from the Cotton Development Authority, which is in Riverside. That is where the Authority is based. It is being run by our secretariat from the Ministry but we are in the process of hiring a Chief Executive to take up cotton and really popularise it.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, the Cotton Development Authority has been in existence for three years. About Kshs700 million has gone down the drain. It has no CEO. What are the achievements of Cotton Development Authority in those three years?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, there was a Board which was dissolved. The other one was constituted just last year. They have taken over just now. They have an office unlike before when they did not have a place where they could operate from. We are trying, together with other stakeholders and our development partners, to look for a financier for cotton because this crop is grown in 42 districts in this country. Very soon, they will start to do promotions. We are bringing some seeds from Turkey because the major issue has been seeds.

**Mr. Twaha:** Mr. Deputy Speaker, Sir, historically, all industrialization came from the textile industry. So, our farmers who produce cotton and other fibre crops should be given all the encouragement. The Assistant Minister announced, three months ago, that the Government will buy cotton at Kshs30 per kilogramme this year. When will this announcement be implemented?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the going price at the moment is between Kshs20 and Kshs25 per kilogramme. Due to the number of farmers who have been trained to grow this crop, we expect this time to have a higher production. We hope this will push the price from Kshs25 to Kshs30 per kilogramme.

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I am a Member of the Departmental Committee on Agriculture---- The other day, we visited Mwea where they grow bio-technological cotton. Who has authorised KARI to carry out research on cotton if the Cotton Development Authority does not have a chief executive?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, this is not really research. What we are doing in Mwea is seed multiplication. That is the responsibility of KARI just as they have done with other crops like maize. We are giving them Kshs70 million to do that. It is also being done in Kibos.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, Kicomi is privately-owned. There is a Government policy on private-public partnership. Is the Assistant Minister, therefore, saying that he disregards Government policy and he has no interest in reviving this particular industry which will go a long way to create employment for our youth?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, Kicomi was sold by the Government to a Mr. Sajid Malkit Singh in 1993 and he owns it. So, we have no authority to go and grab it back from him. We are trying to encourage him to open it. He will, definitely, open it once the production of cotton is sufficient for him to operate.

## ORAL ANSWERS TO QUESTIONS

*Question No.184*WAIVER OF VAT ON  
TOURISM TRAVELS

**Mr. Kariuki** asked the Minister for Finance:-

(a) whether he is aware that although he has waived tax on gym equipment for hotels, the subsequent imposition of 16 per cent Value Added Tax (VAT) on tourism travels is bound to make Kenya less competitive, particularly in the face of adverse effect on tourism sector during the recent post-election crisis, and;

(b) whether he could confirm when he will waive the said 16 per cent VAT.

**The Assistant Minister for Finance** (Dr. Oburu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) This year's Budget did not recommend taxation on tourism travels. What was proposed was taxation on the transportation of tourists by all means of conveyancing. The proposed tax measure did not intend to impose a heavy burden of taxation on the tourism industry but was aimed at addressing some gaps that were noted in the area of transportation of tourists as taxation is a concern.

(b) Based on representations by the Ministry of Tourism as a result of negative reaction from the stakeholders, I wish to confirm that the proposed taxation measures will be reviewed during the post-Budget amendment stage.

**Mr. Kariuki:** Mr. Deputy Speaker, Sir, I would like to commend the Assistant Minister for answering that Question. This issue of taxation is causing a lot of confusion in this volatile tourism industry because some stakeholders are charging this tax while others are not charging it. Could the Government consider delaying the implementation of this tax until the next financial year?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the Ministry will review the position in the coming Finance Bill on which debate is starting tomorrow. The Government cannot wait until next year. This matter is before the House and it will be reviewed as soon as possible. We are bringing a proposal.

**Mr. Kariuki:** Mr. Deputy Speaker, Sir, if it is possible, could the Assistant Minister tell us the date when this will be reviewed, even if it is this year?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I have said that the Second Reading of the Finance Bill will start tomorrow. That is when it will be presented.

*Question No.200*DISBURSEMENT OF WEDF MONEY TO  
WOMEN GROUPS IN LIMURU

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

(a) whether she could confirm that most deserving women have not accessed funds under the Women Enterprise Development Fund since its inception;

(b) how much of the money has been disbursed to women groups and individuals in Limuru Constituency; and,

(c) whether she could explain the steps she is taking to ensure that women who require entrepreneurial skills are trained before accessing the money and indicate when such will start.

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

(a) I am aware that some deserving women groups have not accessed funds under the Women Enterprise Fund since its inception.

(b) The amount of money disbursed to women groups and individuals in Limuru Constituency is Kshs5,040,000 as at 28th October, 2008.

(c) In order to ensure that women entrepreneurs are trained before accessing the money, the Ministry is taking the following steps:-

1. Strengthening of the secretariat for the Women Enterprise Fund Advisory Board by:-

(a) Recruitment of a Chief Executive Officer. This process has been concluded and the officer reported for duty on 3rd November, 2008.

(b) It has advertised for nine posts for various positions in the secretariat. These advertisements are closing on 4th November, 2008, which is today, and successful applicants are expected to report on duty on 27th November, 2008.

2. Mobilisation and awareness creation through various means such as public barazas, electronic and print media as well as training workshops organized by our officers at the district and divisional levels.

3. Capacity building of divisional Women Enterprise Fund Committees and women groups.

4. Individuals and groups who access loans through the micro finance institutions are trained by those institutions before the loans are disbursed to them.

5. Monitoring is done on a continuous basis during which women groups and individuals are advised on prudent utilization of loans.

**Ms. A. Abdalla:** Mr. Deputy Speaker, Sir, could the Assistant Minister confirm that some of the financial intermediaries that have been recruited by the Ministry are charging women almost 24 per cent interest on the loans offered?

**Mr. Keya:** Mr. Deputy Speaker, Sir, it is true that some of the micro finance institutions are charging women entrepreneurs 24 per cent or more than the Government stipulated rate of 8 per cent. In that regard, the Ministry has now deregistered them from the list. They will not be included in the next allocation.

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, I did not get a chance to interrogate the Question further. So, I will still have another chance. The Assistant Minister has stated that public barazas and training workshops are part of the training. I am not aware that this is happening in the particular constituency that I have asked about.

Mr. Deputy Speaker, Sir, other than saying that the last batch of employees to commence this programme will be employed on 27th November, 2008, the Assistant Minister did not indicate the commencement date of this programme on the ground once those people are brought on board.

**Mr. Deputy Speaker:** Mr. Assistant Minister, could you be specific?

**Mr. Keya:** Mr. Deputy Speaker, Sir, the programme is continuous. It will start on 15th November, 2008, and it will continue.

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, if I may read the answer he has given me, which says:-

"The officers to undertake this exercise have not been brought on board."

The answer further says that it will start once they are brought on board. The Assistant Minister is now misleading the House by saying that it will commence on 15th November, when the officers will not be on board. Am I in order to seek for that clarification?

**Mr. Deputy Speaker:** Yes, indeed! You are very much in order! Mr. Assistant Minister, are you sure about what you are saying and what you have written?

**Mr. Keya:** Mr. Deputy Speaker, Sir, our District Development Officers (DDOs) and the Divisional Development Officers (DDOs) in the field are the ones who will start from 15th December.



**Mr. Letimalo:** Mr. Deputy Speaker Sir, the Women Enterprise Development Fund seems not to be meeting its objective of empowering women economically. Certain districts, like Samburu East, do not have microfinance institutions. What plans does the Ministry have to ensure that there is equal distribution of funds, particularly in the marginalised districts?

**Mr. Keya:** Mr. Deputy Speaker, Sir, it is very unfortunate that a district like Samburu does not have--- How does it pay its people? We have banks in Samburu!

**Mr. Letimalo:** On a point of order, Mr. Deputy Speaker Sir. I have told the Assistant Minister that we do not have a microfinance institution in Samburu East District and yet, he is asking me how we pay out money. What arrangements does he have to ensure that the women in Samburu East District are adequately served?

*(Laughter)*

Could the Assistant Minister be patient and answer the Question adequately? Or should he go back and look for the records?

**Mr. Deputy Speaker:** Mr. Assistant Minister, please, answer the Question!

**Mr. Keya:** Mr. Deputy Speaker, Sir, there is a bank in Maralal and we are making arrangements to assist in disbursing those funds to the women.

**Mr. Letimalo:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister should be informed that Samburu East District is independent and does not have a microfinance institution to serve women groups, particularly in the disbursement of the Women Enterprise Development Fund money. That is what I am saying. What arrangements are there to ensure that they are not denied those services?

**Mr. Deputy Speaker:** Hon. Assistant Minister, the presumption is that you are going to disburse money to women in Samburu. But there is no institution to manage that. So, what arrangements do you have to ensure that institutions are put in place so that those women can also benefit from that Fund?

**Mr. Keya:** Mr. Deputy Speaker, Sir, the arrangement we have is that the Kenya Commercial Bank in Maralal will handle that issue. When you talk about Maralal and Samburu being different districts, you should consider the fact that some districts were formed recently. They do not have their district headquarters. They are still using the old district headquarters. For example, Kakamega has four districts. All of them are still using the banking institutions in Kakamega Central Town. That district is old.

**Ms. A. Abdalla:** On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the Leader of Government Business to have an orientation workshop for all Ministers and Assistant Ministers on the development disparities between districts in this country?

**An hon. Member:** We know that!

**Mr. Keya:** Mr. Deputy Speaker, Sir, I have a statement showing the distribution of monies from the Women Enterprise Development Fund to all the 210 constituencies.

**Mr. Deputy Speaker:** You have laid that on the Table?

**Mr. Keya:** Mr. Deputy Speaker, Sir, yes I have.

**Ms. Noor:** Mr. Deputy Speaker, Sir, I would like to ask the Assistant Minister what mechanisms he has put in place to reach and serve the pastoralist women and, in particular, by organising them and building their capacity by providing those funds to them? I am aware that those women have never accessed the funds so far.

**Mr. Keya:** Mr. Deputy Speaker, Sir, it is true that some of the women in those pastoralist areas have not accessed the funds. However, it is the responsibility of area Members of Parliament

to know what the Government is offering to its people so that they can know what to do. We may not be able to reach all the districts when all of us are here.

**Mr. Mwathi:** On a point of order, Mr. Deputy Speaker Sir. The last question should come from me!

**Mr. Deputy Speaker:** I called you but you did not respond!

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, I did not hear you! Would I be in order to ask the last question?

**Mr. Deputy Speaker:** That is not a point of order!

**Dr. Monda:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell hon. Members to make it their responsibility to ensure that money has reached every part of this country, when the Ministry should have a strategic plan to ensure there is development in the country?

**Mr. Keya:** Mr. Deputy Speaker, Sir, I did not say that it is the responsibility of the area Members of Parliament. However, it is the responsibility of the area Members of Parliament to create an awareness so that people could know what the Government is doing for them.

**Mr. Mwathi:** On a point of order, Mr. Deputy Speaker, Sir. I would like to request that I ask my last burning question!

**Mr. Deputy Speaker:** Proceed!

**Mr. Mwathi:** Thank you, Mr. Deputy Speaker, Sir. Among the answers that have been given by the Assistant Minister, he said that the microfinance institutions are the ones that are training the people who access that money. Could the Assistant Minister tell us what programmes are going on under those microfinance institutions? He should let hon. Members have access to those programmes so that they can transmit that information to their constituents.

**Mr. Keya:** Mr. Deputy Speaker, Sir, as I have said, we have programmes that are going on. As the area Member of Parliament has asked regarding--- Did I get you clearly? What did you say in your last question?

*(Laughter)*

**Mr. Deputy Speaker:** Hon. Assistant Minister, you are not serious! Mr. Mwathi, ask the question again!

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, I have realised that the Assistant Minister is not serious about this Question. However, for the benefit of all women in Kenya, I would like to repeat it. Could the Assistant Minister instruct the microfinance institutions - I will simplify for you - to ensure that those training programmes are brought to the knowledge of Members of Parliament, so that we can transmit the information to those people who are supposed to be beneficiaries?

**Mr. Keya:** Mr. Deputy Speaker, Sir, I confirm that we will instruct the microfinance institutions to do so.

*Question No.400*

MEASURES TO CURB INSECURITY  
IN NYAMUSI DIVISION

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

(a) whether he is aware that Nyamusi Division in North Mugirango/Borabu

Constituency has, for the last one year, experienced a lot of gun attacks which have made it difficult for the Provincial Administration to discharge its duties properly; and,

(b) what steps the Government is taking in order to curb the high rate of insecurity in the constituency and bring the culprits to book.

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

(a) I am not aware that there have been incidents of attacks in Nyamusi Division involving the use of firearms in the last one year; nor am I aware that the Provincial Administration is unable to discharge its duties due to any state of insecurity within the division.

However, I am aware that, on 25th August, 2008, around 2.30 a.m., a group of five men armed with crude weapons had boarded a bus belonging to Nyamira Express Company within Ekereny Division and commandeered the same bus up to Nyamusi Division, where they robbed passengers of mobile phones, money and other valuables in addition to raping two women.

(b) In the meantime, we have attached a GK vehicle registration number GK A 448G to the police to be used in patrolling the area as a measure of controlling crime. That is in addition to sensitisation programmes that are being carried out through community policing activities.

**Mr. Ombui:** Thank you, Mr. Deputy Speaker, Sir. When you look at the answer given by the Assistant Minister, it is true that he is not aware. He is not in touch with what is happening on the ground. I will only give him three instances where people have been killed and others wounded through the use of guns.

On 26th December last year, one candidate's home was attacked and people were wounded by the use of guns. On 31st January this year, one teacher and his son were attacked. Up to now, they are still nursing their wounds. On the 28th of last month, which is last week, one businessman was attacked and shot dead. The body is in the mortuary and we will bury him on the 13th of this month. Could the Assistant Minister confirm that he does not have any correspondence from the Provincial Administration, at the district level and the provincial level? That is because he is not aware of what has been happening.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I have said that I am aware of some thugs who hijacked a bus and commandeered it all the way to Nyamusi Division. That happened because there was no vehicle to patrol the area. I want to do two things. First, we are going to have a police station at Magwagwa.

Mr. Deputy Speaker, Sir, secondly, the security intelligence has also proposed and recommended that we put up a police station at Nyamusi itself. That will not be during this financial year because we have exhausted the monies that we have. However, I want to promise my colleague that, come next financial year, I will make sure that we allocate enough money to construct two police stations. As we speak here, I have allocated a vehicle to patrol the area. Those incidents will be a thing of the past.

**Mr. Nyambati:** Thank you, Mr. Deputy Speaker, Sir. I am really surprised to hear the Assistant Minister say that he is not aware of the incidents of insecurity that have been taking place in Kisii District.

I have also come from the constituency and, two days ago, the Headteacher of Esani Secondary School in my constituency was attacked and he is in hospital. I want to know from the Assistant Minister what he has done to protect the citizens of this country. This Ministry is not doing enough to protect the people of this country. A Government that cannot protect its people has no business ruling this country.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I thought you will congratulate me for agreeing to put up a police station in that area, in order to minimise insecurity. We will not only patrol the

Nyamusi area, but all the other areas which are prone to insecurity. Those areas will be patrolled on a 24-hour basis. We are also going to beef up security in those areas. That is the best I can do for now. The Government is fully in control. Some of those issues come about as a result of poverty. The poverty level has gone up and we are doing all we can to minimise the level of insecurity.

**Mr. Chanzu:** Thank you, Mr. Deputy Speaker, Sir. Aware that there exists *Chinkororo* and *Sungu Sungu* squads in that part of the country, and aware that they are more equipped than the police, when will the Government formalise the existence of those groups so that they can assist in providing security in those areas?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, those are illegal groups and when we know where they are, we will arrest them. You will never hear of them again!

**Mr. Ombui:** Thank you, Mr. Deputy Speaker, Sir. I appreciate that the police have been assigned to patrol that region. But due to the vastness of that region, could the Assistant Minister consider assigning the vehicle to Nyamusi Division, instead of Nyamira District Headquarters?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I do not have any problem with that. If there is any vehicle available, whether second-hand or not, I will be ready to assign it permanently to that area.

**Mr. Ombui:** On a point of order, Mr. Deputy Speaker, Sir. With the little knowledge that I have in law, I understand that protection of human life belongs to a different class compared to other animals. When the Assistant Minister says that he will assign a second-hand vehicle, he should know that we have no second-hand lives in North Mugirango, where I am the Member of Parliament! Is he in order to say that he will assign a second-hand vehicle to Nyamusi Division?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I said that I will try and get him a serviceable vehicle. But in the event that I cannot get a new one, I will definitely give him a serviceable vehicle in order to minimise insecurity.

*(Applause)*

**Mr. Deputy Speaker:** The next Question is No.297 from Mr. K. Kilonzo. He sent his regrets that he will not be around today. The Question is, therefore, deferred until a later date when he will be available.

*Question No.297*

CREATION OF 24-HOUR  
ECONOMY FOR NAIROBI

*(Question deferred)*

*Question No.239*

DELAY IN COMPLETION OF NJABINI-OL  
KALOU-DUNDORI ROAD

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

- (a) whether he is aware that the construction of the Njabini-Ol Kalou-Dundori Road is behind schedule;
- (b) whether he could indicate when it will be completed and assure the House that there will be no cost overrun due to the delay; and,
- (c) why the construction of the road did not start from different sections as it

happened on the Naivasha-Nakuru Road.

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

(a) I am aware that the construction of Njabini Road, through Ol Kalou to Dundori, is behind schedule. It was awarded to China Hui Company Limited on 13th October, 2006, at a cost of Kshs3,485,554,917, and commenced on 15th March, 2007.

The project is jointly financed by DEER, OPEC, Saudi at 60 per cent, and Government of Kenya (GoK) at 40 per cent. The progress is approximately 35 per cent against 66 per cent elapsed time.

(b) The project is scheduled to be completed on 14 March, 2009. It is not envisaged that there will be cost overrun due to the delay.

(c) The construction has started from two fronts; that is from Ol Kalou towards Mawingo, and from Njabini towards Mawingo.

**Mr. Gaichuhie:** Mr. Deputy Speaker, Sir, the road stretches from Ol Kalou-Njabini-Dundori to Lanet. But the section is only Ol Kalou-Njabini-Dundori. When will the Ministry repair the section between Dundori and Lanet, since that road is pathetic as we speak now?

**Mr. Kinyanjui:** Thank you, Mr. Deputy Speaker, Sir. Money has been allocated for routine maintenance of the road from Lanet to Dundori. The Ministry is also considering tarmacking that section to complete it, all the way to Njabini.

**Mr. Mureithi:** Mr. Deputy Speaker, Sir, I am extremely disappointed by the answer that has been given by the Ministry. That is because I took the trouble to tour that road on Sunday. They have only finished a very small section in the Kipipiri area. The most unfortunate thing, before I ask my question, is that they have brought in surveyors all the way from China. According to the current philosophy of the road, they have used the terrain. Therefore, I feel very disappointed because they have even told us that they will not do the road to Ol Kalou---

**Mr. Deputy Speaker:** Order, Mr. Mureithi! Much as you are disappointed, it is Question Time! Try and address your disappointment by asking further questions.

**Mr. Mureithi:** Mr. Deputy Speaker, Sir, the reason I am disappointed is because the Ministry of Roads is not addressing the problems of Ol Kalou farmers.

Mr. Deputy Speaker, Sir, right now, milk is not able to reach the processors. We have been told that we cannot do that road because we are going to spoil it. Could the Assistant Minister make sure that they start from Ol Kalou? They have not started from Ol Kalou and he is giving us a shoddy answer!

**Mr. Kinyanjui:** Thank you, Mr. Deputy Speaker, Sir. I hope I got the question right. I wish to say that the Ministry recognises Ol Kalou as a key area in terms of agricultural produce. We will do all that is possible to complete the work within the given time.

Further, Mr. Deputy Speaker, Sir, a sizable section of the road corridor conflicts with the recently established Kenya Power lines and the process of relocating depends on Kenya Power and Lighting Company (KPLC). We are, therefore, hoping that KPLC will co-operate with us so that the work can go on as scheduled.

Thank you.

**Mr. Mureithi:** On a point of order, Mr. Deputy Speaker, Sir. I toured that road. Another disappointment which I want to inform the Ministry about is that the contractors have brought their own surveyors. If you drive a car like a Range Rover, be very careful because they have used the terrain. I wish to ask the Assistant Minister whether they are using modern technology of straightening the road. Are we going to use foreign surveyors who move along the terrain which will create danger for our vehicles, particularly when it is raining?

**Mr. Deputy Speaker:** That is not a point of order! But, nevertheless, Mr. Assistant

Minister, could you answer that question?

Mr. Mureithi, that is not a point of order!

**Mr. Kinyanjui:** Thank you, Mr. Deputy Speaker, Sir. I am not aware that we are using foreign surveyors to do the survey of the roads. But if that is the case, my Ministry will address that issue.

**Mr. Zonga:** Mr. Deputy Speaker, Sir, is the Ministry of Roads allowing Kenya Power and Lighting Company to instal their power lines along road reserves? You are telling us that the project will delay because Kenya Power and Lighting Company will have to relocate their power lines.

**Mr. Kinyanjui:** Thank you, Mr. Deputy Speaker, Sir. The Kenya Power and Lighting Company has to use the road reserves. But I think we are talking about the allowance allowable; from where the road is. When the road was designed, certain poles were found to be on the side where the road was supposed to be. So, we are asking for realignment of our way leaves and that is in progress. The question is how soon that will happen. We have gotten assurance that, indeed, KPLC will be able to hasten the progress.

**Mr. Deputy Speaker:** Mr. Mureithi, last question on that!

**Mr. Mureithi:** Mr. Deputy Speaker, Sir, when will the Ministry finish that road, considering that they have only finished less than 30 per cent on the 67 per cent time allocated to them?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the project is scheduled to be completed on 14th March, 2009. We have not received any request for extension and we do not hope to grant that. So, for now, we take it that it will be completed on 14th March, 2009.

Thank you.

**Mr. Deputy Speaker:** Next Question, Dr. Otichilo, MP for Emuhaya!

*Question No.241*

MISMANAGEMENT OF EBUNANGWE  
SECONDARY SCHOOL

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

(a) whether he could confirm that Ebungwe Boys Secondary School has declined in performance since the 1990s due to gross mismanagement of the school;

(b) whether he could also confirm that a principal at the school misappropriated funds during the first term of 2008, but has neither accounted for the money nor has he been reprimanded; and,

(c) what steps the Ministry is taking to ensure that funds allocated to schools are accounted for and necessary action taken against errant officers.

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

(a) The performance of Ebungwe Boys Secondary School has, on average, been poor since the advent of 8-4-4 system of education in 1989, when the school registered a mean score of 4.57 in the Kenya Certificate of Secondary Education (KCSE). The performance, thereafter, improved slightly to reach the best performance ever for the school in 1998, when it achieved a mean score of 5.08. The lowest performance was in 2001, when the school registered a mean score of 3.82. The results for 51 KCSE candidates in 2007 were cancelled due to examination irregularities.

While the mismanagement of the school cannot be ruled out, the causes of poor

performance are attributed to high turnover of headteachers, hostile environment, external interference, clanism, antagonistic Board of Governors and drug abuse, among others.

(b) An investigation carried out in the school has confirmed some of the allegations on financial mismanagement by the immediate former Principal of the school, Mr. Mwaniki Patterson Gikuhi. In total, the principal is required to account for a refund Kshs305,531, comprising of un-surrendered imprest, inadmissible expenditure, unpaid house rent, unaccounted-for cash withdrawn from the bank, unaccounted-for proceeds from the sale of school cow and un-receipted fees.

(c) I have directed the Provincial Director of Education, Western Province, to liaise with the school's Board of Governors and initiate action to recover the school's funds, and take disciplinary action against the principal in question. The Ministry has also instructed the current management of the school to put internal controls in place to address the identified financial management weaknesses. In order to avoid unnecessary questions, I have some very latest information.

On Friday last week, the Board of Governors met under the guidance of the Provincial Director of Education had summoned the former principal who accepted the charges and has undertaken to pay Kshs305,531 through a check-off system by the Teachers Service Commission. That money will be refunded back to the school.

Thank you.

**Dr. Otichilo:** Thank you, Mr. Deputy Speaker, Sir. I wish to thank the Assistant Minister for being honest. He has given us an honest answer that Eburnangwe Boys Secondary School is doing very bad. He has identified the problem as high turnover of headteachers, who have been stealing money from that school. The headmasters who have been in that school for the last ten years have stolen money to the tune of Kshs3.7 million. The report from the auditors attests to that fact.

Mr. Deputy Speaker, Sir, despite that, the Ministry has continued to transfer those headteachers to other schools. I wish to ask the Ministry why it has not interdicted those headteachers, including Mwaniki Gikuhi, who misappropriated money recently. He collected school fees and put the money into his pocket! Why have you transferred him to another school instead of interdicting him?

**Mr. Mwatela:** Mr. Deputy Speaker, Sir, it is the practice of the Ministry to establish the wrong-doing before it takes action. In that particular case, definitely, corrective action will be taken! If the teacher is found to have stolen some money, then, definitely, we will interdict him or her. But it is also important for hon. Members to note that when we interdict teachers, we also risk losing the money. So, one of the ways is to ensure that those people pay back our money before we remove them from the service.

Thank you, Mr. Deputy Speaker, Sir.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, the Assistant Minister discovered in 1989 - that is 19 years ago - that the performance of the school was poor and it continued to go down. Could the Assistant Minister tell us why it has taken him 19 years to do nothing about the need to improve the performance of that school? Removal of that teacher is a smaller problem. The bigger problem is the performance of the school. Why has the Ministry done nothing over a period of 19 years?

**Mr. Mwatela:** Mr. Deputy Speaker, Sir, the Ministry is going to do something now. It is true we have information that, for the last 19 years, the school has not been performing well. This is a new team! So, be sure, *Mheshimiwa*, that we will take action!

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, the Assistant Minister has talked about the practice in the Ministry. But I would just like to ask him when he will shorten the kind of bureaucracy that

is involved. That is because it is very expensive in terms of schools and the action that is supposed to be taken. If the Ministry takes a lot of time to act on those disciplinary cases, when will it shorten the procedure to deal with such kinds of disciplinary cases like embezzlement of funds in schools?

**Mr. Mwatela:** Mr. Deputy Speaker, Sir, I undertake to study the possibility of shortening the period.

**Mr. Muturi:** Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister could take 20 years to take action. The Assistant Minister has stated that one of the most serious problems is drug abuse in that school. Yet, the Code of Regulations for teachers enables the Provincial Director of Education to interdict that teacher.

Could the Assistant Minister tell us what has been the impediment in taking disciplinary action against those teachers who have been misappropriating public funds?

**Mr. Mwatela:** Mr. Deputy Speaker, Sir, yes, I agree with the hon. Member that there has been some laxity. But, through the Chair, I am telling you, hon. Member, and all the other hon. Members in this House that, the Ministry will take instant action in cases of drug abuse.

Thank you, Mr. Deputy Speaker, Sir.

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

**Dr. Otichilo:** Mr. Deputy Speaker, Sir, I wish the Assistant Minister could clarify--- He has indicated clearly that one of the causes of poor performance in that school is high turnover of headteachers and an antagonistic Board of Governors (BoG). What is the Ministry doing to ensure that we do not have a high turnover of headteachers and that the BoG is not antagonistic?

**Mr. Mwatela:** Mr. Deputy Speaker, Sir, those are social related issues. We, definitely, get recommendations for Board appointment from the people on the ground. We will look at the possibility of ensuring that we have a more education-friendly Board. I actually invite the hon. Member to come to my office so that we can discuss that particular issue and get a Board that is more friendly to the school. On the question of turnover of headteachers, I think we will sit with the TSC and, again, ask for the co-operation of the hon. Member so that we do not have teachers who stay only for a year and then go away. That is harmful to the school.

Thank you, Mr. Deputy Speaker, Sir.

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

*Question No.259*

EXPLOITATION OF WIND ENERGY  
IN NORTHERN KENYA

**Mr. Chachu** asked the Minister for Energy:-

(a) how many companies have been licensed to exploit the wind energy in northern Kenya;

(b) whether he could provide the list of the companies and blocks that they have been licensed to exploit in the area and also table copies of the agreements; and,

(c) considering that the local community in the area would lose part of their land for the establishment of wind farms, what measures the Government has put in place to ensure that such persons are adequately compensated.

**The Assistant Minister for Energy** (Mr. Keter): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There are no companies that have been licensed to exploit wind energy in northern Kenya, neither is the land divided into blocks for exploitation.

(b) There are no agreements because there are no licensed companies.



(c) The Government has liberalised the generation of electric power energy. Those investors intending to exploit various sources of energy, including wind energy in northern Kenya, will be expected to source and acquire suitable sites through appropriate negotiations and agreements with local communities or private individuals who own land. The Ministry provides data on the speed, intensity of the wind and any other necessary information which is contained in the guidelines for investors under what we call the "Fit-in-Tariff".

**Mr. Chachu:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the response. Northern Kenya is highly un-developed and highly marginal. Research has shown that there is so much potential for wind energy production in northern Kenya, which can really enhance the development of that region, which is really lagging behind in this country. What is the Ministry doing to ensure that it harnesses enough wind energy to enable development of northern Kenya?

**Mr. Keter:** Mr. Deputy Speaker, Sir, as I said earlier, the Ministry has developed data concerning where we can generate energy through wind. Marsabit and most parts of the Coast Province are high potential areas and, already, there are private investors who have come in. Already, there are some investors who have gone to Turkana and Ngong Hills. They are developing about 300 to 350-megawatt stations. KenGen is developing one at Ngong which can produce 500 megawatts. So, Marsabit is a high potential area in terms of the speed of the wind. In our data, it is a very strong area. It has a good intensity of wind and it is ranked among the best sites in Kenya. There are already signs of some investors coming in. Very soon, they will be there to develop the area.

**Eng. Gumbo:** Mr. Deputy Speaker, Sir, the potential to harness alternative/renewable sources in energy in Kenya is huge. It is estimated to run into tens of thousands of megawatts. Yet, in this country, biting shortages and unstable supply remain the order of the day. When you hear, for example, the Assistant Minister giving his answer, you tend to get the impression of policy statements that lean towards exclusivity. They talk of geothermal, solar, wind and even oil plants, but all on their own!

Mr. Deputy Speaker, Sir, my question to the Assistant Minister and to the Ministry of Energy is: Has this Government taken steps to establish the available potential of alternative/renewable sources of energy in Kenya? What steps have they taken, for example, to establish a master plan to a list cost-routing to establish how much potential is available and how much of it can be harnessed for the good of the people of this country?

**Mr. Keter:** Mr. Deputy Speaker, Sir, I have only talked about wind energy. In our plan, we have also developed data for the biomass and small hydros. What we have done in the Ministry is to package all the data. We have opened it up for private investors so that we can move with speed to harness the renewable sources of energy. We have made it easier for the investors. We have provided data on how much the Ministry is going to pay you, for example, if you develop biomass, a small hydro or wind energy plant of between zero to 50 megawatts and up to, maybe, 1,000 megawatts. We have that data. We want to move with speed so that it can be opened to the investors.

**Mr. Gumbo:** Mr. Deputy Speaker, Sir, I think the Assistant Minister did not understand my question. The question was very clear: I said estimates are that the potential for energy available from alternative and renewable sources runs into thousands of megawatts. What steps has the Government taken to establish this potential and how to harness it for the good of the people of Kenya?

**Mr. Keter:** Mr. Deputy Speaker, Sir, I understood his question very well. I said that as a Ministry, we have highlighted those areas where you can develop energy, be it geothermal or otherwise. There are areas which we have earmarked, so that private investors cannot just go to an area and say that they want to drill a hole and develop geothermal power. We have sites earmarked

by the Ministry, and whenever a private investor comes to the Ministry--- We have even posted them on our website and the only thing one does is to chose which site he wants to develop, so that we work together as a Government-private partnership. The Government is also developing some areas and private investors are allowed to also do that.

**Mr. Mwathi:** Mr. Deputy Speaker, Sir, I am interested in the issue of compensation. On my table, lies very many requests for me to follow up on the issue of compensation to those who have over-head power cables passing through their properties. As a matter of policy, does the Ministry have a time limit within which they compensate those who have given up their land for such activities?

**Mr. Keter:** Mr. Deputy Speaker, Sir, there is acquisition of way leaves--- Before a contractor is even awarded a contract, the first thing he has to do is to acquire the way leaves. The affected people are supposed to sign them and compensation starts from that point, so that the affected people are paid their money before the construction is over

**Mr. Chachu:** Mr. Deputy Speaker, Sir, wind is a resource in northern Kenya. Secondly, the people of northern Kenya have communal land: They do not have individual land parcels with title deeds.

I want to know what the Government policy is to ensure that the resource, being the wind, in northern Kenya as well as communal land, which the people have to give up for the establishment of the wind pumps, will be compensated for by these private investors, I know there are three or four companies that have been doing feasibility studies in northern Kenya with the aim of putting up wind pumps.

**Mr. Keter:** Mr. Deputy Speaker, Sir, before we give a licence, the first step is for those companies to negotiate with the individual communities through their local authorities and have an agreement under which they can be in a joint venture; they can agree that when the project is fully operational, whatever proceeds will accrue will assist the community. Alternatively, they can agree on a purchase agreement of the site through the local communities. Immediately they do that, they provide us with the necessary information, so that we can provide them with the necessary requirements to proceed.

*Question No.290*

EXPANSION OF THIKA ROAD  
TO DECONGEST NAIROBI

**Mr. J.M. Kamau** asked the Minister for Nairobi Metropolitan Development what steps the Ministry has taken, in the interests of decongesting Nairobi City, to expand Thika Road and encourage people to settle in that part of the City.

**Mr. Deputy Speaker:** The Minister for Nairobi Metropolitan Development? He is not here! Mr. Vice-President and the Leader of Government Business?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka); Mr. Deputy Speaker, Sir, I am a little mystified because I saw Ms. Ongoro. She was around and I was of the view that she was ready to answer this Question. We could have a few moments to check on her whereabouts.

Next Question, Mr. Anyanga!

**Eng. Gumbo:** On a point of order, Mr. Deputy Speaker, Sir. I seek your indulgence on this Question, because it is a matter that is touching on very important business people in this country. Destruction is going on along Thika Road. Could you direct, therefore, that this Question comes at the end of the other Questions?

*(Applause)*

**Mr. Deputy Speaker:** Well, given the sensitivity of the issue, the Chair assents to that!

*(Applause)*

*Question No.405*

SUPPORT/PUBLICITY FOR  
THIMLICH OHINGA MUSEUM

**Mr. Anyanga** asked the Minister of State for National Heritage:-

(a) whether he is aware that Thimlich Ohinga Museum in Nyatike Constituency is classified as a national museum but is currently neglected; and,

(b) what steps he will take to ensure that the museum is supported by the Ministry and properly publicised to attract tourists.

**The Assistant Minister, Ministry of State for National Heritage** (Mr. J. Onyancha): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Thimlich Ohinga is a national monument gazetted in 1981, and classified as a cultural landscape under the care of the National Museums of Kenya (NMK). It is situated 46 kilometres from Migori Town. The monument is manned by nine full time staff of the NMK, who live within the site headed by a site caretaker. The staff are responsible for routine maintenance, including enclosures, walls restoration, fence stabilisation, traditional Luo homestead houses repairs, landscaping of the site and vegetation control within the stone enclosures. Their efforts are supplemented by casual labourers, who are hired on a need basis.

(b) Thimlich Ohinga Museum is one of key monuments in Western Kenya tourism circuit. It is a site that is already well known in Kenya and abroad. Information on this important site is on the NMK website, [www.museums.or.ke](http://www.museums.or.ke), which registers four million hits per year. Its fame is behind the reason why the NMK was able to obtain a grant from an organization in New York that funds monuments.

In addition, my Ministry is in the process of submitting to the UNESCO, World Heritage Sites, a tentative list for Kenya and Thimlich Ohinga is one of those monuments to be included. It is from this list that state parties to the 1972 World Heritage Conventions can nominate sites to be considered for inscription in the prestigious World Heritage List. Kenya already has four sites on that list; Lamu Old Town, Miji Kenda sacred Kaya Forests, Mt. Kenya and Lake Turkana National Park, which is the cradle of humankind.

**Mr. Anyanga:** Mr. Deputy Speaker, Sir, I wish to appreciate the response given by the Assistant Minister. However, there are some areas which I believe he has not addressed. Could the Assistant Minister confirm to this House the possibility of annual budgetary allocations to this facility for the improvement and management of the same?

**Mr. J. Onyancha:** Mr. Deputy Speaker, Sir, in 2006/2007, the Government, through my Ministry, allocated the NMK Kshs2.1 million to continue restoration of works at Thimlich Ohinga and from Government funding, a number of activities have already been carried out on this site. So, we shall continue funding the NMK which oversees some of these sites.

**Mr. Affey:** Mr. Deputy Speaker, Sir, the Assistant Minister has confirmed that, indeed, this is an important historical site, and that it deserves funding. Given the answer he has just given the House that Kshs2.1 million was allocated in 2006/2007, what budgetary allocation has the Ministry made to this site in the 2008/2009 Budget? Could he also confirm that since 2000, the only other

time this facility was funded was in 2006?

**Mr. J. Onyancha:** Mr. Deputy Speaker, Sir, I agree with the Questioner but we shall continue looking into this. We shall definitely give some funding to that site.

**Mr. Litole:** Mr. Deputy Speaker, Sir, I am wondering whether the Assistant Minister is not misleading the House by saying that during the last general elections, there was some violence in Nyatike Constituency. Nyatike Constituency is purely and predominantly a Luo domain. Could he inform the House who they were fighting with? If it is true that they were fighting, is the name of this inciter in the famous envelope?

*(Laughter)*

**Mr. J. Onyancha:** Mr. Deputy Speaker, I do not think I want to respond to that because I have not said that.

**Mr. Litole:** On a point of order, Mr. Deputy Speaker, Sir. According to the answer given by the Assistant Minister to the hon. Member of Parliament for Nyatike, it has that quotation. Why is the Assistant Minister then misleading us when the answer given by the Ministry has those wordings?

**Mr. J. Onyancha:** Mr. Deputy Speaker, Sir, I am responsible for my answer which I gave here. So, I do not wish somebody to put words into my mouth.

**Mr. Anyanga:** Mr. Deputy Speaker, Sir, could the Assistant Minister inform the House what steps he is putting in place to ensure that revenue is collected from the potential visitors to Thimlich Ohinga Museum?

**Mr. J. Onyancha:** Mr. Deputy Speaker, Sir, we have already funded this site and part of the funding has gone into making the staff available that will be collecting some revenue from tourists and other people who visit this area. So, we have put programmes in place to be able to collect revenue to continue improving this site.

**Mr. Deputy Speaker:** Next Question by Mr. Washiali!

*Question No.277*

SUPPLY OF SUBSIDIZED FERTILISER  
TO SUGAR SUBSECTOR

**Mr. Washiali** asked the Minister for Agriculture:-

- (a) whether he could inform the House on how much fertiliser has been imported as subsidies to farmers to mitigate the effects of post-election skirmishes and the current food crisis;
- (b) how much fertiliser has been channelled to the sugar sub-sector; and,
- (c) how, when and at what price it will be sold to farmers.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) My Ministry, through the National Cereals and Produce Board (NCPB), has imported 13,750 metric tonnes which is 275,000, 50 kilogramme bags of Calcium Ammonium Nitrate (CAN) (26 per cent Nitrogen) as subsidies to mitigate the effects of post-election skirmishes and the current food crisis.

(b) A total of 28,000, 50 kilogramme bags of CAN have been channelled through NCPB depots in the sugar sub-sector.

(c) The fertiliser is available and sold through NCPB depots at Kshs1,750 per 50 kilogramme bag.

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for the answer, though it is like he felt that I was asking this Question on behalf of maize farmers living in the sugar-cane growing region. Though I may not have a problem with that, my Question was very specific to sugar-cane farmers. The CAN fertiliser that they have imported is a top-dressing fertilizer for maize farmers. Could he inform the House what he is doing with regard to the fertiliser that is used in sugar-cane farming which is Diammonium Phosphate (DAP) and Urea?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, just a week ago, a contract was signed with a company which is supposed to bring the following fertilizer: DAP 1846, 25,000 metric tonnes; NPK 26.55, 63,650 metric tonnes; NCK 2323, 32,062 metric tonnes; CAN 26 Nitrogen, 28,950 metric tonnes and Urea 46 per cent Nitrogen, 15,654 metric tonnes. This is expected between now and February, 2009.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, the Assistant Minister's colleague, Mr. Mbiuki, told us here two weeks ago that this fertiliser should have been here last Friday and if the fertiliser did not come, he was going to resign. I do not know if the Assistant Minister is aware of that. If he is, what are they doing to ensure that this fertiliser is here? Now, we seem to be talking about next year.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the fertiliser Mr. Mbiuki was talking about was for the short-rains and already, we have fertiliser for South Rift, Eastern and Central provinces. It has already been supplied and it is in the depots. We are talking of the bulk fertiliser which we are bringing next year between now and February.

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has made it very clear that the fertiliser they imported is for the short rains. Is he in order to sideline the North Rift from getting this fertiliser and yet there is a lot of rain there now?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, what my colleagues talked about was the fertiliser for Eastern, South Rift, Central and the other areas where there is rain. Even if there is a lot of rain in the North Rift, they are almost harvesting what they had planted.

The bulk fertiliser which is coming and which I had talked about is going to be taken to those areas. As we speak, there is a lot of fertiliser in Rift Valley Province and we are borrowing some to take to the other areas that lack it.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, the question to the hon. Assistant Minister is very specific: "How much fertiliser has been channelled to the sugar sub-sector? How, when and at what price will it be sold to the farmers?" I do not think he has been very clear on part "b" and "c". I think he should be very clear on those two parts.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the fertiliser which has been channelled to sugar subsector is as follows:-

**Mr. Deputy Speaker:** If it is long, just lay it on the table.

**Mr. Ndambuki:** Okay, Mr. Deputy Speaker, Sir. I lay the list on the Table.

*(Mr. Ndambuki laid the document  
on the Table)*

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I think your ruling for the Assistant Minister to lay the list on the table makes him escape a few of the questions we were meant to ask because many other players are in this fertiliser business.

Mr. Deputy Speaker, Sir, We have traders and farmers who are expected to buy this fertiliser. Could the Assistant Minister inform the House the prices of fertilisers like DAP and Urea, so that farmers and other players can plan for their business?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the DAP which will be coming will be sold at

Kshs3,600 per bag. Urea will be lower than that because it will be subsidised by the Government.

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

*Question No.290*

EXPANSION OF THIKA ROAD  
TO DECONGEST NAIROBI

**Mr. J.M. Kamau** asked the Minister for Nairobi Metropolitan Development what steps the Ministry has taken to expand Thika Road and encourage people to settle in that part of the city in the interest of decongesting Nairobi City.

**The Assistant Minister for Nairobi Metropolitan Development** (Mrs. Ongoro): Mr. Deputy Speaker, Sir, I beg to reply.

First and foremost, the Ministry---

**Mr. Deputy Speaker:** Order, Madam Assistant Minister! Apologise to the House for having been out of the House when you should have been here!

*(Applause)*

**The Assistant Minister for Nairobi Metropolitan Development** (Mrs. Ongoro): Mr. Deputy Speaker, Sir, I apologise for leaving the House shortly.

Mr. Deputy Speaker, Sir, I beg to reply.

First and foremost, the Ministry plans to improve the transport infrastructure within the Nairobi metropolitan region by doing the following:-

(i) Construction of various roads in Nairobi including non-stop fly-overs.

(ii) Reduction of the number of traffic lights and elimination of roundabouts.

(iii) Construction of non-motorised transport facilities including cycling and pedestrian lanes.

(iv) Improvement of traffic flow.

(v) Create park and ride areas, construct slip roads and missing links.

(vi) Improve on both street and security lighting to ensure that in our attempt to make Nairobi a 24-hour economy, some business can be carried out at night so that some people can come to the Central Business District (CBD) during the night. This way, we will have less traffic during the day.

**Mr. J.M. Kamau:** Mr Deputy Speaker, Sir, I think the Assistant Minister has answered the wrong Question. My Question does not talk about giving Nairobi a 24-hour working schedule! Could the Assistant Minister answer Question 290 on the Order paper?

*(Applause)*

**Mrs. Ongoro:** Mr. Deputy Speaker, Sir, in our effort to decongest the CBD, it is still correct if I tell the hon. Members that we intend to create a 24-hour economy. This is one step towards decongesting the city. We want to encourage people to conduct business at night so that we have less people and traffic coming to the CBD during the day.

**Mr. Deputy Speaker:** Order, Madam Assistant Minister! Are you sure you are answering Question No.290 by Mr. M. Kamau? Its content is:-

"In the interest of decongesting Nairobi City, what steps has the Ministry taken to expand Thika Road and encourage people to settle in that part of city?"

Is that the Question you are answering?

**Mrs. Ongoro:** Mr. Deputy Speaker, Sir, Thika Road is currently under construction. I am aware that demolitions are being carried out to allow us enough space in our attempt to create a six-lane highway on both sides of the road. When this is completed, we believe that people are going to be encouraged to reside, do businesses and relocate to this part of the city.

**Mr. Koech:** Mr. Deputy Speaker, Sir, I appreciate the answer given by the Assistant Minister. The destruction going on in this country is a matter of great concern. Five years ago, we witnessed the demolition of people's properties in the name of creating by-passes. However, five years down the line, nothing is going on. What we are seeing along Thika Road is serious destruction of people's property. These are people who are taking care of the business of this country and our great economy. Could the Assistant Minister inform this House what plans the Ministry has to compensate the affected traders? Could she also tell us whether the Ministry is a Ministry of construction or destruction?

**Mrs. Ongoro:** Mr. Deputy Speaker, Sir, first and foremost, it is very important to understand the mandate of the Ministry of Nairobi Metropolitan Development. Let me clarify that the demolitions that are taking place are not carried out by this Ministry. However, this is a Ministry that liaises with so many other Ministries. Within the metropolitan, we are liaising with the Ministry of Roads and Public Works, the Ministry of Housing and so many other Ministries. I am aware that those affected had been given enough notice. However, I agree that the manner in which the demolitions are being carried out, being my constituency, has given an impression of us not being very humane. We must understand that, at times, the bigger picture must override all other interests.

Mr. Deputy Speaker, Sir, I beg to supply more information on this matter.

**Mr. Jirongo:** Mr. Deputy Speaker, Sir, I would like the Assistant Minister to clarify whether there is a proper procedure on how to acquire private land, if the Government so wishes. Despite the fact that many Ministries are involved in what is happening, there is a proper procedure of acquisition of private land. These people have title deeds. Unless the Kenya Government does not recognise title deeds, why would the Ministry go ahead to demolish people's property without using the relevant procedures laid down to acquire compulsorily, any property they so wish to use?

**Mrs. Ongoro:** Mr. Deputy Speaker, Sir, could I be in order to ask to be given more time in order to give more information on this?

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Dr. Khalwale, are you sure you are on a point of order and not a question? What is not in order? And it better be a point of order!

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has requested to be allowed time to come up with a comprehensive answer. However, what prompted her to make this request are the two supplementary questions raised. Could you allow us to give her points of clarification so that she comes up with a comprehensive answer?

**Mr. Deputy Speaker:** Order! It is well understood, Dr. Khalwale! Very well taken! Points of order are supposed to be sharp and to the point and I think you did that in the first few sentences.

Madam Assistant Minister, you started answering the Question, so go on! If you had some information that you need to consult on, you needed to ask the Chair to have this Question deferred to another day.

The question by Mr. Jirongo has not been answered!

Mrs. Elizabeth Ongoro, please, proceed!

**Mrs. Ongoro:** Mr. Deputy Speaker, Sir, I would like to ask for the indulgence of the Chair-

--

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Ms. Odhiambo, Mrs. Ongoro is responding to a point of order!  
Mrs. Ongoro, please, proceed!

**Mrs. Ongoro:** Mr. Deputy Speaker, Sir, I want to ask for the indulgence of the Chair to allow me time to consult with the Ministries of Roads and Public Works.

*(Applause)*

**Mr. Deputy Speaker:** Order! Order! Hon. Members, the Chair recognises how emotive this issue is and also empathises with the Assistant Minister's situation. She did not come adequately prepared for this Question. Under the circumstances, the Chair directs that this Question appears on the Order Paper tomorrow afternoon!

*(Question deferred)*

*(Applause)*

**Ms. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Ms. Odhiambo, that Question has been disposed of! It is going to appear on the Order Paper tomorrow afternoon!

**Mr. M. Kamau:** On a point of order, Mr. Deputy Speaker, Sir.

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

**Mr. M. Kamau:** Mr. Deputy Speaker, Sir, I have a written answer here which she has given me.

**Mr. Deputy Speaker:** No! No! The whole Question has been deferred to tomorrow afternoon! The Assistant Minister will come with an answer that is more comprehensive than the one she has given you now. She will come better prepared.

Next order!

## POINT OF ORDER

### USE OF EXCESSIVE FORCE BY SECURITY FORCES DURING OPERATION IN MANDERA DISTRICT

**Mr. Affey:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security, regarding the current security operation in Mandera District.

As the Minister gives us the position of the operation, I would like to seek the following clarifications:-

First, is whether the Government is satisfied with the current excessive use of force by the security forces in this operation, and secondly, whether he could confirm that the security forces have engaged in gender-based violence like rape. Thirdly, could he tell the House why the security forces have found it necessary to punish and physically assault chiefs, teachers and elders? Finally, when does the Government wish to terminate this operation?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Deputy Speaker, Sir, I would have issued a Ministerial Statement straightaway, but I was out of the country. This is a grave matter because it involves loss of lives. We wanted to flush



out the bandits within that area and bring law and order within it. I would seek the indulgence of the Chair, so that I can issue an elaborate Ministerial Statement on Thursday .

**Mr. Deputy Speaker:** That is granted. It will be on Thursday, this week.

The Acting Minister for Finance has a Ministerial Statement to issue. Proceed, Mr. Minister!

## MINISTERIAL STATEMENT

### INVOLVEMENT OF ZAIN/SAFARICOM IN DEPOSIT/TRANSFER OF FUNDS

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, thank you for granting me this opportunity to respond to a request by Mr. Mbadi, the hon. Member for Gwassi Constituency, who sought a Ministerial Statement on 21st October, 2008 from the Minister for Finance on the effects of involvement of mobile phone operators in cash deposit and transfer. In particular, he wanted to know whether the Central Bank of Kenya (CBK) is able to do the following:-

- (i) monitor the money in circulation as it does with individuals and commercial banks;
- (ii) maintain reserve targets, given that there is a lot of money, he alleged, in circulation from the two mobile phone-based money transfers; and,
- (iii) subject our financial system to prudent regulations for robust and secure movement of funds across the economy.

The hon. Member further stated that the reason why he was seeking this statement was because of the current high inflation which, in his view, might be due to unchecked and uncontrolled transfer of funds by the mobile phone operators. In responding to the issues raised by the hon. Member, I consider it imperative to first understand what the mobile phone-based transfer system is all about; but more importantly, we need to appreciate whether such transactions can result in an increase in the reserve money, which forms the basis of money creation. This is important because any unplanned increase in reserve money would lead to expansion in money supply in excess of what is required to support productive economic activities and subsequently, to inflation.

Mr. Deputy Speaker, Sir, mobile phone-based money transfer is an innovative electronic money transfer product that enables users to store value on their mobile phone account in form of "electronic currency", which when necessary, they can transfer to other mobile holders to settle payments. It is a convenient and cheaper alternative mechanism for executing financial services.

For this system to operate, first, there must be a network provider or operator that uses its existing mobile phone network to electronically transmit monetary values as requested by the customers. Secondly, there must be a separate company formed by a network provider or operator to hold money deposited by a customer in a bank account and thirdly, there must be a commercial bank that maintains the trust account referred to above.

For any person or subscriber to use this system, such a subscriber must be registered to use the services of a mobile-based money transfer operator, and he or her phone must be fitted with a SIM card that has a specialised software to effect financial transactions.

It is important to emphasise that for a subscriber to obtain e-money, he or she must first deposit with an agent, or network provider, customer care actual cash drawn from his bank account. The maximum e-money a customer can purchase, and be credited to his or her account, is Kshs50,000. No income or interest is earned by that account. Also, the amount transferrable to other persons is limited to Kshs35,000 per

transaction. So, you still have to fit the account after you are allowed the first transfer and nothing will take place until you have put money into that account.

The system works in such a way that the total money e-money held by say, M-pesa agents is equivalent to the total cash balance on M-pesa Trust Account with the Commercial Bank of Africa, which is the chosen bank by the mobile phone operator. This is the e-money that the agents in turn sell or transfer to their customers in exchange for cash. Agents can only acquire additional e-money by depositing cash into the bank accounts that I have just mentioned.

Hon. Members, it is worth emphasising that the CBK has been closely monitoring the operations of the two electronic phone based money transfer operators. The bank's findings is that e-money purchased is transferred on a daily basis and, therefore, does not serve as an alternative bank account. It is with this understanding that the CBK recognises M-pesa as merely a money transfer service. It is no more than that. Despite what has been alleged or said, it is no more than normal money transfer as you would issue a cheque or withdraw money and pay somebody.

Mr. Deputy Speaker, Sir, the M-Pesa services are now widely used both in rural and urban areas, as it is a cheaper alternative way to transfer money. In any case, you will avoid those people who will always want your money, although they have not earned it. Indeed, even commercial banks are being engaged by Safaricom to provide services for a commission, just like any other Safaricom dealer agents.

Mr. Deputy Speaker, Sir, obviously, the Government has taken interest to understand that innovation. But more, importantly, to put in place safeguards to minimise risks to customers, the Central Bank of Kenya, working together with Safaricom, has developed a system for monitoring the operations of M-Pesa through regular information which is submitted to it. Indeed, the Central Bank of Kenya has prepared a draft National Payment System Bill which is intended to cater for such emerging products, and challenges associated with them. Once the Bill is finalised, we will soon be tabling it here for your examination, approval and for that matter, rejection if you so think.

Mr. Deputy Speaker, Sir, it is now clear to hon. Members that given the way the mobile phone-based money transfer system operates, there is no way reserve money would increase on account of such money transfer transactions. Monetary field tells us that reserve money can increase only if there is an expansion in the net foreign asset and/or the domestic asset of the Central Bank of Kenya. Those are the two sources of reserve money which are, in no way, affected by the mobile-based money transfer transactions. So, the fear that the Central Bank of Kenya is not able to contain reserve money target is misplaced and far-fetched.

Mr. Deputy Speaker, Sir, it is worth noting that the Central Bank of Kenya is also able to monitor the money in circulation since the mobile phones funds are first paid to a bank account by the appointed agents. Those deposits---

**Mr. Deputy Speaker:** Hon Minister, could you, please, summarise!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, I am not very far from finishing. It is well that this matter is fully understood.

**Mr. Deputy Speaker:** Proceed!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Those deposits are reported by receiving bank alongside other deposits to the Central Bank of Kenya, using an already laid down statistical system of reporting the operations of the banking industry. Moreover, as earlier noted, the Central Bank of Kenya has worked with the industry's stakeholders and established a system of regular reporting by the mobile transfer business operators. Perhaps, the only impact of this technological achievement is that the relationship between money and economic activity is increasingly becoming blurred. Can I repeat that, Mr. Deputy Speaker, Sir.

**Hon. Members:** Yes!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): The only impact

of this technological advancement is that the relationship between money and economic activity is increasingly becoming blurred. Of course, it is a function of money to do that. We are checking it with the Central Bank of Kenya to consider defining each monetary policy operating procedures.

Hon. Members, I am informed that this is an on-going exercise. With respect to the issue of subjecting our financial systems to prudent regulations for robust and secure monetary movement of funds across the economy, I wish to state categorically that the bank has the capacity--- It is only fully empowered with the relevant legal instrument to carry out its mandate. The Central Bank of Kenya Act and the Banking Act can stand the test of the day. Moreover, the bank subjects countries' payments and settlement system to the best international practices, including those core principles developed by the Bank for International Settlement in Basel in Switzerland.

Mr. Deputy Speaker, Sir, as I conclude, I wish to make it clear that it is not correct to argue that the current high inflation phenomenon is the result of use of mobile-based E-Money. To the contrary, the high inflation that has hit Kenya reflects the rapid increase in food prices occasioned by shortage in domestic food production. You know why that shortage came about. It has been compounded by the high international oil prices. That is the source, rather than the circulation of money of very insignificant account of Kshs50,000 bob! It is also important to note that even globally, prices of grains have skyrocketed as the use of grains as alternative sources of energy has reduced their availability for human consumption.

Finally, I wish to assure this House of the Government's commitment to maintaining a stable macro economic framework, as predictability is key to decision-making by households, as well as the business community in conducting their affairs. In this regard, we will continue to implement prudent fiscal and monetary policies and to closely monitor our financial sector and payment settlement in order to safeguard any undesirable systematic developments.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Mbadi:** Thank you, Mr. Deputy Speaker, Sir. I would like to thank the Minister for that detailed Ministerial Statement touching on that very important issue.

Mr. Deputy Speaker, Sir, it is very clear that the inflation rate in Kenya is very high. Actually, as we speak here today, the rate of inflation is at 28.2 per cent which, for a long time, we have not witnessed in this country. There must a reason to that. I want to get some clarification from the Minister.

Number one, the Minister has talked about a draft National Payment and Settlement System that is being worked on. He has explained that, that is because the mobile phone operators accept deposit. Since they are not covered by the CBK Act at the moment, then there is a grey area that needs to be addressed. Before that is done, the Minister wants us to believe that everything is okay. As we talk today, the Central Bank of Kenya Act does not have the apparatus and the machinery to monitor those funds.

Mr. Deputy Speaker, Sir, number two, the Minister has talked about the relationship between the money and the economic activities. He has rightly recognised that, that is a grey area. The main reason why the Central Bank of Kenya (CBK) needs to monitor the money in circulation is to be able to determine and match it with economic activities. If that area is blank, how is the Minister able to give us confidence that, that electronic money transfer is not affecting our economy?

Mr. Deputy Speaker, Sir, the Minister is using the international oil prices to justify the increase in inflation in this country and yet, we are aware that, at the moment, there has been a decline in international oil prices.

**Mr. Deputy Speaker:** Order, hon. Member! The rule is that you seek clarification on the basis of the substance of the statement by the Minister. Indeed, you have ably done that. Could you stop the over-kill and allow the Minister to do that clarification now?

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I would like to seek a further clarification from the Minister. Now that we have had companies which have been trading in finances with our citizens - that is pyramid schemes like DECI - which have conned wananchi a lot of money, which assurance are you giving this House to assure us that M-Pesa, which is used to transfer money electronically, will not, at one point, get away with peoples' money?

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I have two points on which I seek clarification. The first one is that the Minister has told us that he is on top of things. Indeed, if you are on top of things, can you tell Kenyans how much money is presently held in circulation through e-money transfer? Once we know that, we shall know that you are in control.

The second clarification which I am seeking is: When is the Minister going to bring a legislation that will protect that innovative service? That is because without legislation, it is quite clear that e-money will give way to criminal activities. Without legislation, users will not be protected when they lose money through that transfer. Without legislation, the services charged for that transfer will remain unregulated.

**Mr. Shakeel:** Mr. Deputy Speaker, Sir, mine is in conjunction with that. I thought it would be better for the Minister to answer all of them together. Firstly, I need a very comprehensive answer. M-Pesa is known as the "poor man's bank". What I would like you to be very clear about, because you have touched on it is: Is the Deposit Protection Fund, which is set aside for deposit takers--- It has not been very clear from the Minister whether M-Pesa is a deposit taker or not. For everybody and for simple people, it is the peoples' bank. As a banker, it is clear that they are deposit takers. However, they have been able to be in a grey area. The Minister should tell us what he is going to do about that.

The Minister also spoke about the M-Pesa Trust Account, which you implied is something like the Deposit Protection Fund. But, *Bwana Waziri*, the circulation of money in the M-Pesa system cannot be quantified! It is not equal to the amount of money that has been deposited in the M-Pesa Trust Account. That is the reason why hon. Members are asking you about the issue of M-Pesa. As you know, Mr. Minister, the circulation of money does not necessarily mean there is inflation---

**Mr. Deputy Speaker:** Order!

**Mr. Shakeel:** Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! You sought clarification and that is the essence! Allow the Minister to clarify now!

Mr. Minister, proceed now and clarify!

**The Minister for Environment and Mineral Resources (Mr. Michuki):** Mr. Deputy Speaker, Sir, quite a few issues have been raised over this matter. The first one indicates that there is still doubt as to how much money is generated by that operation.

Mr. Deputy Speaker, Sir, I mentioned a few things in my statement. One, is the limitation of how much each account can hold at any given time, and how much money can be transferred from that account. I mentioned a figure of Kshs50,000 and Kshs35,000. Secondly, Mr. Deputy Speaker, Sir, I also talked about the measures we have taken to safeguard any likely suffering that the users of that system might have.

It is true that those with bad intentions could misuse the system. But soon, there will be a system of checks. We have even had to pass a law here, but because fines and warnings are not sufficient, any person who issues a dude cheque which has no money will go to prison, and there is no alternative. That has come about because of experience. I said that the CBK and the Ministry of Finance are watching very carefully over that system. It is a new way of transferring money. We do not want to encourage innovations within the financial system because, as a country, we aim at being a financial hub for this region. But at the same time, I want to assure the House that we shall

not compromise good management and fair systems that safeguard the interests of all. I think that deals with the questions raised by Mr. Mbadi by way of seeking clarifications.

There was also a question on how much of that money is in circulation. It is in those accounts. I have no figure for the number of accounts that are existing. That is because we will just need that number to be multiplied by Kshs50,000.

We will see how much money is involved! But, of course, as we talk about it here, we are publicising the system and, hopefully, sooner or later, we shall know the truth. I can bring those figures here later, but I do not have them here. All I know is that the account is restricted. You cannot transfer more than that money. You must be registered with a SIM Card. With the SIM Card, we have other ways of knowing whether you are transferring that money to a criminal or to somebody else, depending on how you talk about it. We will know at the end of the day! The fund, according to the questioner, is not a protection fund. It is a fund established between a bank and the operators of this system, for example Safaricom. Within that account controlled by the bank and Safaricom, the agents are allowed to withdraw a maximum of Kshs35,000 out of their account of Kshs50,000. So, we have not established a fund as yet to protect this system, because we must understand that it is part of the banking system, which is, on a daily basis, supervised by the Central Bank of Kenya (CBK).

**Mr. Deputy Speaker:** Hon. Members, I think we have had sufficient clarifications but just before we move to the next Order, I will re-visit my previous ruling on the Question by Mr. Kamau which had to do with decongesting of Nairobi City and expansion of Thika Road. It was misdirected to the Ministry of Nairobi Metropolitan Development. It should be directed to the Ministry of Roads and the Minister for Roads is under the same instructions to have the answer available by tomorrow.

Madam Deputy Leader of Government Business, I hope you will relay that information to the relevant Ministry.

Next Order!

## BILLS

### *First Reading*

#### THE MERCHANT SHIPPING BILL

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms Karua)  
Mr. Deputy Speaker, Sir, on behalf of the Minister for Transport, I beg to move that in accordance with Standing Order No.101A(1), this House Orders that the Merchant Shipping Bill be referred to the Departmental Committee on Energy, Communications and Public Works.

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

*(Order for First Reading read -  
Read the First Time and ordered to be  
referred to the relevant  
Departmental Committee)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

*[Mr. Deputy Speaker left the Chair]*

**IN THE COMMITTEE**

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

THE CONSTITUTION OF  
KENYA REVIEW BILL

*Clause 2*

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 2 of the Bill be amended by inserting the following new definitions  
in their appropriate alphabetical sequence:-

"Commission" means the Constitution of Kenya Review Commission established  
under the expired Act;

"Constitutional Conference" means the National Constitutional Conference  
established under the expired Act.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Temporary Deputy Chairman, Sir, I wish to accept the amendment and indicate to hon.  
Members that this is just to clarify references to the old Act.

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

*(Clause 2 as amended agreed to)*

*(Clauses 3, 4 and 5 agreed to)*

*Clause 6*

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, I beg to move:-  
THAT, Clause 6 be amended by-

(a) deleting Subclause (4) and replacing it with the following subclauses-

(4) The Committee of Experts shall comprise of nine persons nominated by the  
National Assembly and appointed by the President of whom-

(a) three shall be non-citizens nominated by the National Assembly from a list of  
five names submitted to the Parliamentary Select Committee by the Panel of  
Eminent African Personalities in consultation with the National Dialogue and  
Reconciliation Committee; and,

(b) six shall be citizens of Kenya nominated by the National Assembly in  
accordance with the procedure prescribed in the

First Schedule.

(b) inserting the following new subclause immediately after Subclause (6)-

(7) The Parliamentary Select Committee shall ensure regional and gender balance in the persons recommended for appointment as members of the Committee of Experts.

The amendment has three proposals; one is to change the composition of the Committee of Experts to increase the number of Kenyans to serve on that Committee for obvious reasons. The constitutional review process is probably the most crucial process this country can undertake in terms of legislation. It is prudent that we have a majority of Kenyans, not just in terms of the total number but in terms of committees and the quorum.

Secondly, the proposed amendments rationalise the procedure of appointment to ensure Parliamentary scrutiny and, thirdly, it essentially seeks gender and regional balance on that crucial Committee.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Temporary Deputy Chairman, Sir, I support the amendment. It gives ownership of the process to Kenyans, and introduces uniformity in terms of appointment of both the foreign and local experts. I also support the issue of gender and regional balance.

With those few remarks, I beg to support.

*(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. Deputy Chairman, Sir, I beg to move:-  
THAT, Clause 7 be deleted and substituted with the following-

Procedure for appointing

non-citizen members. 7. (1) The Panel of Eminent African Personalities in consultation with the National Dialogue and Reconciliation Committee shall, within fourteen days of the commencement of this Act, submit the names of five nominees to the Parliamentary Select Committee, for onward transmission to the National Assembly.

(2) The Parliamentary Select Committee shall rank and provide comments regarding each of the nominees under Subsection (1) to the National Assembly.

(3) The National Assembly shall, upon receipt of the recommendations of the Parliamentary Select Committee under Subsection (2), nominate three persons for appointment as members of the Committee of Experts and shall submit the list of nominees to the Minister.

This amendment follows on the earlier amendment in terms of the Committee of Experts. It rationalises the appointment as far as appointments of non-citizens are concerned and in the follow-up to the earlier amendment.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Deputy Chairman, Sir, I support the amendment. It is in line with the earlier amendment on the mode of appointment.

*(Question of the amendment proposed)*

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, Clause 7 has not been amended. It has been deleted. So the proposal is not for amendment. It is for deletion and substitution.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, we are consulting in a minute.

*(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 7 deleted)*

*(New Clause 7 agreed to)*

*(Clauses 8, 9, 10, 11 and  
12 agreed to)*

*Clause 13*

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

THAT Clause 13 be amended in Subclause (1) by deleting paragraphs (a) and (b) and substituting therefor the following-

(a) where the vacancy is in respect of a citizens of Kenya, the person ranked next highest on the list submitted by the Parliamentary Select Committee to the National Assembly under the First Schedule;

(b) where the vacancy is in respect of a non-citizen, from either of the other two names submitted by the Panel of Eminent African Personalities giving due regard to the rankings and comments of the Parliamentary Select Committee:

Provided that the Parliamentary Select Committee shall ensure that the appointment of a replacement under this section shall not result in regional of a replacement under this section shall not result in regional or gender imbalance of the Committee of Experts contrary to Section 6(7).

Mr. Deputy Chairman, Sir, the amendments deal with the mechanism and procedure of filling vacancies that may fall with the Committee of Experts. Essentially, the idea is to have a timely and fair process or procedure to fill vacancies without having to go back to the drawing board. Assuming the vacancy in the Committee of Experts is in respect of a citizen of Kenya, this



amendment allows the Parliamentary Select Committee to appoint the next best candidate that has been proposed to the National Assembly. It also gives the National Assembly the leeway to pick the second or third candidate to ensure regional or gender equity.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Deputy Chairman, Sir, I support the amendment and once again, it streamlines the replacement of the foreign [The Minister for Justice, National Cohesion and Constitutional Affairs] experts to be in harmony with the local experts and both to come through Parliament.

*(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 13 as amended agreed to)*

*(Clauses 14, 15, 16, 17, 18, 19, 20,  
21, 22, 23, 24, 25, 26,  
27 and 28 agreed to)*

*Clause 29*

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

THAT, Clause 29 of the Bill be amended by deleting Subclauses (6) and (7) and substituting therefor the following:-

(6) If the National Assembly fails to approve the draft Constitution in accordance with Subsections (4) and (5), a joint meeting between the Parliamentary Select Committee and the Committee of Experts shall be convened by the chair to consider the issue or issues and to make recommendations to the National Assembly.

(7) In considering issues not approved by the National Assembly, the meeting convened under subsection (6) shall invite the Reference Group to make recommendations on how the issue or issues may be resolved.

(8) The meeting convened under subsection (7) shall be held in consecutive sessions over a period of not more than 14 days and shall be chaired by the chair of the Committee of Experts.

(9) Upon decision of the meeting, the Committee of Experts shall, within seven days, revise the draft Constitution and submit a report and the new draft Constitution to the National Assembly.

(10) The National Assembly shall approve the draft Constitution and submit it to the Attorney-General for publication.

Mr. Temporary Deputy Chairman, in holding the hearings, the Committee realised that the most critical criticism this Bill faced is that this process was particularly controlled or run by parliamentarians or "politicians". We heard time and again, how the process had been locked up so

that it was only Members of Parliament or politicians who were to run it. We have allowed a mechanism to create or facilitate formalised consultation process to give a window to organised groups to inter-phase with the process so that they can input or in the event of deadlock, as indicated, they would know, how to break it. Essentially, what this amendment and a further amendment down the line proposes to do is to allow members of civil society, religious groups or different interested Kenyans to be part of the process. Really, this is a process for the people of Kenya.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I support the amendment. I agree that it brings in the participation of other members [**The Minister for Justice, National Cohesion and Constitutional Affairs**] of the society and not just Parliamentarians. This is in line with the spirit of the Act that there should be participation.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Temporary Deputy Chairman, Sir, further to what the Minister has said, I think this is a very beautiful addition to this Bill. You remember the last time we had the issue of passing the draft Constitution without any form of amendments, there were a lot of issues. The public were saying that, we were passing things, without involving them. I would like to congratulate the chairman for creating a window through which the public can come for further consultation and therefore, make this process a sure success.

*(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 29 as amended agreed to)*

*(Clause 30 agreed to)*

*Clause 31*

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

THAT, Clause 31 be amended by re-numbering the clause as Subclause (1) and inserting the following Subclauses:-

(2) The Committee of Experts shall involve non-state actors in the delivery of civic education.

(3) The provincial administration shall co-operate with and provide support to the Committee of Experts and non-state actors providing civic education on the draft Constitution.

Mr. Temporary Deputy Chairman, Sir, the idea is to mandate civil society in the running of civic education and to obligate both the Committee of Experts and provincial administration to cooperate with civil society and members of this nation in running civic education programme.

This is essentially to give ownership to a wider group of Kenyans.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Temporary Deputy Chairman, Sir, I support the amendment. It is in line with the spirit of the Bill, allowing participation by all. It is necessary that the Bill provides for corporation by the provincial administration so that civic education providers are left to operate without hindrance.

*(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 31 as amended agreed to)*

*(Clauses 32, 33, 34, 35, 36, 37,  
38, 39, 40, 41, 42, 43, 44, 45, 46,  
47, 48, 49, 50, 51, 52, 53,  
54 and 55 agreed to)*

*New Clause 2A*

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by inserting the following new clause immediately  
after Clause 2-

Object and Purpose

of the Act 2A. The object and purpose of this Act

Purpose of is to-

- (a) provide a legal framework for the review of the Constitution of Kenya;
- (b) provide for the establishment of the organs charged with the responsibility of facilitating the review process;
- (c) establish mechanisms for conducting consultations with stakeholders;
- (d) provide a mechanism for consensus-building on contentious issues in the review process; and,
- (e) preserve the materials, reports and research outputs gathered under the expired Act.

Mr. Temporary Deputy Chairman, Sir, every law comes with objects and reasons for it. In giving the objects and reasons, Clause 3 of the Bill essentially deals with the objects and reasons of the review process of the Constitution. What the Bill left out are the objects and reasons of this particular Bill and the law that results. What the proposed Clause 2A wishes to do, therefore, is to detail the object and purposes of this particular Bill.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I support this amendment and commend the Committee. It is very well thought-out, and does capture the object and purpose of the Bill.

*(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 be added to the Bill, put and agreed to)*

*New Clause 5A*

**Mr. Abdikadir:** Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, the bill be amended by inserting the following new clause immediately after Clause

5-

Parliamentary Select

Committee 5A(1) The National Assembly shall establish, in accordance with its Standing Orders, a Select Committee to be known as the Parliamentary Select Committee on the review of the Constitution (hereinafter referred to as the "Parliamentary Select Committee") consisting of 27 Members, to assist the National Assembly in the discharge of its functions under this Act.

(2) In constituting the Parliamentary Select Committee, the National Assembly shall ensure regional balance and gender balance in the composition of the Committee.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**The Assistant Minister for Medical Services** (Mr. Mungatana): On a point of order, Mr. Temporary Deputy Chairman, Sir. Unless I have missed something, I think the new Clause 5A has not yet been proposed or moved by the Chairman of the Committee on the Administration of Justice and Legal Affairs.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, we are still in the Committee of the whole House and we are consulting.

*(The Chair consulted the Clerks-At-The-Table)*

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, the Parliamentary Select Committee is one of the four organs contained in the Bill, yet there are no constitutive provisions in the Bill establishing the Parliamentary Select Committee. Eventually, we can correct that and have the Parliament Select Committee constituted as per this clause. We can also ensure that the Select Committee, because of the crucial role it will be performing, will have gender and regional balance as well.

**The Minister for Justice, National Cohesion and National Cohesion** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I welcome the new Clause. We had left the Committee to be formed in accordance with Standing Orders, but it is much better when it is provided for in the Bill. There is clarity in the way the Committee has crafted this clause.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Temporary Deputy Chairman, Sir, there is one point that the Committee got quite well, and which is running through the Bill. That is the question of regional and gender balance. It was completely omitted from the Bill. So, I would like to commend the Chair and his team. We should support it.

*(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 be added to the Bill, put and agreed to)*

#### *New Clause 26A*

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

THAT, the Bill be amended by inserting a new clause immediately after Clause 26 as follows:-

26A. In the performance of its functions under this Act, the Committee of Experts shall draw upon the views and materials collected or prepared by the various organs of the review under the expired Act, including but not limited to-

- (a) The summary of views of Kenyans collected and collated by the Commission;
- (b) the various draft constitutions prepared by the Commission and Constitutional Conference;
- (c) the proposed New Constitution 2005;
- (d) documents reflecting political agreement on critical constitutional questions, such as the document commonly known as the Naivasha Accord.
- (e) analytical and academic studies commissioned or undertaken by the Commission or the

Constitutional Conference.

Mr. Temporary Deputy Chairman, Sir, essentially, this clause deals with the earlier process; a process that had taken a long time and on which this country spent a lot of money. There are quite a number of documents and agreements that already exist. The amendment, therefore, wishes to link this new part of the process - which we hope will be the concluding part of the process - with that earlier process by using the source documents which are indicated in this new clause. Those are the source documents which the Committee of Experts will source their information and issues. For example, in "a", the summary of the views of Kenyans collected and collated by the earlier

Commission and various conferences.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Temporary Deputy Chairman, Sir, I welcome the amendment. It is in line with the spirit of the Bill. All the previous materials provide a basis for the completion of the review process. I thank the Committee for that inclusion.

*(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 be added  
to the Bill, put and agreed to)*

*New Clause 27A*

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by inserting a new clause immediately after Clause 27  
as follows-

Reference Group 27A. (1) Without prejudice to the powers vested in the organs of the review under this Act, the Committee of Experts shall convene a reference group of thirty representatives chosen by the interest groups identified in the Fourth Schedule to facilitate consultation referred to in Section 27.

(2) The interest groups identified in the Fourth Schedule shall each nominate one person to the Reference Group.

As I had indicated earlier, one of the criticisms we noted, time and again, was that the process was dominated by politicians and the National Assembly. While there is no doubt that this House and Members of this House have the core function of legislation and, essentially, the Constitution is also a law---While it is also true that Members of this House were voted for by more than 10 million Kenyans; while it is certainly true that Members of this House have a very clear mandate that no other institution in this country enjoys in terms of representing and expressing the views of the people of this country, this process is too important to leave to Members of this House alone. Therefore, the essence of this proposed amendment is to bring in a reference group. It will be later listed on the Schedule. There will be a number of civil society institutions, labour organisations, research groups and professional associations. They will add their input into the process and take part in the discussions in a formalised manner.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I beg to support the amendment and say that it is in line with the guiding principles of this Bill. In particular, the guiding principle captured in Clause 5(D), which is to ensure that the review provides the people of Kenya with an opportunity to actively, freely and meaningfully participate in generating and debating proposals to review and replace the Constitution.

I want to commend the Committee for its ingenuity. We needed this clarity in the way the participation will be structured to guarantee inclusion of all shades of opinion.

I beg to support.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, there is a further amendment which will be moved by Mr. Bett.

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I wish to seek the indulgence of the Chair. We have heard what the Minister and Mr. Abdikadir have said. I am proposing an amendment to the Fourth Schedule. I am seeking the indulgence of the Chair to give me guidance because the Fourth Schedule is on the Order Paper. I want to seek your guidance because the amendment to the Fourth Schedule might affect the number of the reference group which he said is 30. My proposed amendment may raise or reduce it.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, you have heard that particular amendment from hon. Bett. He is wishing to delete the number from 30 to 27.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): He has not moved the amendment!

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Bett, it would be proper if you move that further amendment.

*(Loud consultations)*

Order! Hon. Members! Let us consult for a second.

*(The Temporary Deputy Chairman  
(Prof. Kaloki) consulted with  
the Clerks-at-the-Table)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I would want to urge my colleague to drop the amendment. I want to explain that the numbers do not affect the time-table. The reason for having the schedule of participants is because the civil society out there felt that if the Committee of experts is not guided on the people it should not leave out, then they cannot be guaranteed participation. It does not mean in any way that, for instance, that only those 30 organisations will be called. They will call more, but they will also include the 30 that have been named.

For instance, Sir, I would have wanted to see the first indigenous Church in Kenya - the African Independent Pentecostal Church of Africa (AIPCA) - to be on the Schedule. But then, it is not possible to include everyone. So, even if we have the 30, many others will participate in the

forums that the experts will hold. This Schedule is just a guidance so that the civil society out there, including the religious groups, can feel safeguarded by the Act that they will participate. So, it is not necessary to actually reduce or limit.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, we are trying to work on that amendment by hon. Bett.

Proceed, hon. Bett!

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I have no objection to what the Minister has said. The number is 30. But that is so long as I will be heard on my proposed amendment on the Fourth Schedule.

**Dr. Khalwale:** Mr. Temporary Deputy Chairman, Sir, I would like to support the Minister. But I have a problem with what she has just said. When she says that, by us indicating that they will be 30, it does not limit that particular number, it worries me because we have gone ahead and created the Fourth Schedule, in which we are very specific. We have said: "Organisations to choose representatives to the Reference Group". So, since they are named in the Schedule, anybody who does not appear on that Schedule will be a stranger!

Mr. Temporary Deputy Chairman, Sir, I am saying this because we have to think out very well, even if we leave out the figure of 30 to be the number of people representing organisations. With all due respect to the Committee and also to the Minister--- Look! The Federation of Women Lawyers, in my mind, I know it is made up of lawyers. Then, on the same Schedule, we have the Law Society of Kenya and the Magistrates and Judges Association. We are drawing from the same mind of people! When you go further, we also have very resourceful groups of Kenyans who have been left out there. I have in mind the Kenya Medical Association. Unless some people in this Parliament think that doctors have no way they can input in this process---

Mr. Temporary Deputy Chairman, Sir, I am also aware of the Kenya Engineers Association and the Kenya Architects Association. So, I propose that we have a look at it carefully before we move on to look at the Fourth Schedule which we intend to amend.

**The Temporary Deputy Chairman** (Prof. Kaloki): Thank you. Hon. Bett, are you convinced to drop that further amendment which you brought to the Floor?

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, since the Minister and Dr. Khalwale have touched on the Schedule, can I also touch on it? There are two umbrella bodies---

**The Temporary Deputy Chairman** (Prof. Kaloki): Order! Order, hon. Bett! Are you withdrawing that further amendment? That way, the Minister can move on with the Motion---

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I am not withdrawing that further amendment. I have not been given a chance to explain myself.

**The Temporary Deputy Chairman** (Prof. Kaloki): Okay, hon. Bett!

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, there are two umbrella bodies here; the National Council of Churches of Kenya (NCCCK) and then there is the Evangelical Association of Kenya (EAK). Those are two umbrella bodies and yet, again, on the list, the Anglican Church of Kenya (ACK) and the Presbyterian Church of East Africa (PCEA) are listed and yet, the two are already members of the umbrella body, NCCCK. To me, that is double accreditation. That is placing the representation into one mind, as Dr. Khalwale said.

Mr. Temporary Deputy Chairman, Sir, I want to propose that if we are going to name again individual churches within the umbrella bodies, then I am seeing the Evangelical Churches of Kenya saying: "Can we also have two of our names?" So, I want to propose that we leave out PCEA and ACK because they are already within the NCCCK. I believe the Seventh Day Adventist (SDA) is within the NCCCK---

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): No, it is not!



**Mr. Bett:** So, if the SDA is not within the NCKK, I am willing to say that it stays. I want us to avoid what was in the last---

**The Temporary Deputy Chairman** (Prof. Kaloki): Okay. Thank you. Dr. Eseli?

**Dr. Eseli:** Mr. Temporary Deputy Chairman, Sir, I just want to emphasise what Mr. Bett has said. If you look at number four, there is the Supreme Council of Kenya Muslims (SUPKEM). Then, there is the National Muslim Leaders Forum (NAMLEF). That is religion duplicated again. Unless we are very careful with this Schedule here--- If we are saying that we will have 30 representatives who are listed in the Schedule, I do not think the Minister is being fair to us when she says that, later on, that list can be expanded. How can it be expanded when we have passed it? Unless you bring an amendment here to change it.

**Mr. Abdikadir:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I just want to clarify on the point the Minister had raised to the fact that this is not a closed group. We still have Clause 27 which deals with the national discussion of that Constitution. It is actually Clause 27(2), which we have already passed.

Mr. Temporary Deputy Chairman, Sir, with your permission, if I could read it out, it states: "The Committee of Experts shall invite representations from the public, interest groups and experts on the contentious issues".

That is independent of the Reference Group which is in the Schedule. So, using this particular Section, the Committee of Experts can invite any other person. But because of the specific interests that these particular interest groups had, we felt it necessary to point them out. I know, for sure, that the Medical Association of Kenya or the doctors in this country have a lot of input in this process. I believe that they should have been there in that list. But the fact that they are not listed in that particular schedule does not lock them out. We also have the association of professional associations, for instance---

**Dr. Nuh:** On a point of order, Mr. Temporary Deputy Chairman, Sir. We are running into an unnecessary roundabout here.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Dr. Nuh!

**Dr. Nuh:** Mr. Temporary Deputy Chairman, Sir, I think we have a contention about the number of the organisations listed in the Fourth Schedule. It is just prudent that we dispense one issue at a time. Rather than arguing about the amendment of the Fourth Schedule and the number of representatives, will I be in order to propose that we put out the number 30 and say: "A Reference Group that shall be listed in the Fourth Schedule" and then we allow hon. Members to amend or retain the Fourth Schedule, in that order?

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Dr. Nuh! We are talking about the number. We are talking about the same thing.

Proceed, Madam Minister!

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I just want to, once again, refer hon. Members to Clause 21 of the Bill, which we have already gone through. If you look at Clause 21(b), it clearly says that the experts shall have the mandate to undertake thematic consultations with caucuses, interest groups and other experts. If you read the word "Caucuses" and "interest groups" and then you come to the proposed Section 27(A), which says:

"Without prejudice to the powers vested in the organs of review under this Act, the Committee of Experts shall convene a reference group of thirty representatives chosen by the interest groups identified in the Fourth Schedule to facilitate the consultations referred to in Section 27".

It means that those 30 groups are not the only ones that they can invite, when they have consultations. So, it is not that I am being unfair, but the civil society insisted that, although it is

indicated here that they will be invited, let there be a schedule which makes it mandatory for them to be invited. That schedule was basically looked into, bearing in mind what people had agreed in the multi-sectoral forum convened last year, involving all shades of opinion.

So, the list is not exclusive, and even individuals who have an interest in the review process will be able to make their representation. It means "must include" but is not limited to. I am urging hon. Members, because it is not possible to provide for everybody--- I looked at the amendment proposed by the Committee and saw it as a breakthrough in this very agonising issue. It provides us with a way forward in the review process.

All professional societies, including the lawyers who are named, are members of the Association of Professional Societies of East Africa. But bearing in mind that a constitutional making process also requires experts in the field, you will see that lawyers are named twice.

When it comes to the ACK Church, those churches were being given representatives according to their perceived territory even in the earlier grouping. It is not perfect, we must admit, but it is the closest that the Committee could come to. I saw it as a breakthrough because the Ministry, on its own, was not able to have this breakthrough with all those groups, in spite, of the numerous meetings. I urge hon. Members to support the amendment by the Committee.

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

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Bett! I would like the Committee to dispose of your further amendment. There are two issues and we want to dispose of the further amendment by Mr. Bett. I will, therefore, put the Question on the reduction of the number from 30 to 27, so that we can dispose of that bit before we proceed.

**Ms. Odhiambo:** On a point of order, Mr. Temporary Deputy Chairman, Sir. I am not aware of any amendment that has been brought by Mr. Bett in relation to numbers.

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Bett moved it!

**Hon. Members:** He never moved an amendment!

**Ms. Odhiambo:** Mr. Temporary Deputy Chairman, Sir, it was not brought to our attention. We only have the one that has to do with---

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Ms. Odhiambo, for just a second.

*(The Temporary Deputy Chairman  
(Prof. Kaloki) consulted)*

Mr. Bett, could you move or withdraw your amendment on the Floor of the House; you have not actually moved it.

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Fourth Schedule be amended by reducing the number of members from 30 to 27.

*(Question of the amendment  
proposed)*

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Temporary Deputy Chairman, Sir, the amendment has not been seconded. Is it really before the House?

**The Temporary Deputy Chairman** (Prof. Kaloki): Mr. Mungatana, this amendment is coming from the Committee, and so, we do not need a Secunder.

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

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, the proposal by the Committee stands!

*(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 be added  
to the Bill put and agreed to)*

*New Clause 31A*

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the Bill be amended by inserting a new clause immediately after clause 31  
as follows -

Maintenance of records 31A. The Committee of Experts shall ensure that all documents, materials, publications, reports, recommendations and proposed draft laws arising from the review process are maintained in a form that is accessible and usable by members of the public.

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, I propose the amendment by insertion of this clause. It is essentially meant to provide for maintenance of public records for ease of use by members of the public.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua):  
Mr. Temporary Deputy Chairman, Sir, I support the amendment. The introduction of the new clause will safeguard the material.

*(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 be added  
to the Bill, put and agreed to)*

*First Schedule*

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

THAT, the First Schedule be amended by deleting paragraph (6) and substituting therefor the following:-

6. The Minister shall within seven days of receipt of the names of the nominees under paragraph 5 forward the names of the persons nominated in accordance with that paragraph together with the names of the persons nominated under Section 7 of the Act to the President who shall, within seven days of receipt of the names, by notice in the Gazette, appoint them to be members of the Committee of Experts.

The essence of the amendment is to ensure the timeliness of the process from the time the National Assembly approves the names and nominates them to the time the President gazettes the appointment of the members of the Committee of Experts.

*(Question of the amendment proposed)*

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

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

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

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*New Schedule*

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

THAT, the Bill be amended by inserting the following new Schedule immediately after the Third Schedule

**FOURTH SCHEDULE (s.27A)**

**Organizations to Choose  
Representatives to the  
Reference Group**

1. Persons with Disability
2. Mandeleo Ya Wanawake (MYWO)
3. Federation of Women Lawyers of Kenya (FIDA)
4. Supreme Council of Kenya Muslims (SUPKEM)
5. Kenya Episcopal Conference (KEC)

6. Anglican Church of Kenya (ACK)
7. Evangelical Association of Kenya (EAK)
8. Presbyterian Church of East Africa (PCEA)
9. Seventh Day Adventist (SDA)
10. Hindu Council of Kenya (HCK)
11. National Council of Churches of Kenya (NCCK)
12. Organization of African Instituted Churches (OAIC)
13. Central Organisation of Trade Unions (COTU)
14. Kenya National Union of Teachers (KNUT)
15. University Academic Staff Union (UASU)
16. Kenya Private Sector Alliance (KEPSA)
17. Federation of Kenya Employers (FKE)
18. Association of Professional Societies of East Africa (APSEA)
19. Kenya Magistrates and Judges Association (KMJA)
20. Law Society of Kenya (LSK)
21. National Civil Society Congress for Constitutional Review
22. Kenyans for Peace, Truth and Justice
23. Centre for Multi-Party Democracy
24. Youth Agenda
25. Association of Local Government Authorities in Kenya
26. Kenya Land Alliance
27. Media Council of Kenya (MCK)
28. National Muslim Leaders Forum (NAMLEF)
29. National Convention Executive Council (NCEC)
30. Citizens' Coalition for Constitutional Change (4Cs)

The list in the Schedule was adopted from the groups that were identified in the expired Act. In other words, these were the groups that were referred to in the expired

Act and also in the multi-sectoral forum process so that we look at the groups that appeared on those two processes to be able to use them in this process. We felt that the list or Schedule was broad-based. In other words, it included professional organizations, labour organizations, civil society and civil groups. It was as broad as possible. The list is certainly not scientific. It is also not pretending to be all-inclusive so that if one were to seek one institution or organization or group that is not there, there is no doubt they will be able to point out.

However, it is an attempt, in good faith, to try to include as many of the civil societies, regions or sector or thematic groups that were most active and we felt that they were most inclusive in nature. That is how that list should be looked at. I would urge my colleagues to, as fast and possible, process this so that we can in earnest start the process of constitutional reform.

*(Question of the amendment proposed)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Temporary Deputy Chairman, Sir, I wish to support the amendment and plead with hon. Members that list in the Schedule is multi-sectoral and it is not humanly possible to name every organization. I would also like to remind them that this is borrowed from last year's multi-sectoral forum.

With those few remarks, I beg to support.

**Dr. Eseli:** Mr. Temporary Deputy Chairman, Sir, I beg to differ with what the gracious lady, the Minister for Justice, National Cohesion and Constitutional Affairs, has said. I think right

from New Clause 27(A), we have just done a travesty of justice because we have, first of all, said that we will have 30 representatives in the Constitution. We are being told on the side that the 30 do not matter and we are going to have many more coming in from wherever. Those 30 have been listed here. Okay, they could have been listed before in the last process and really what did that last process deliver? Probably some of these were the cause of its non-delivery and they are still included here. If you look at some of these organizations, they are actually represented twice. For example, there is the National Civil Society Congress for Constitutional Review and then you have got National Convention Executive Council (NCEC) and Citizens' Coalition for Constitutional Change (4Cs). These NCEC and 4Cs are actually comfortably represented in the National Civil Society Congress for Constitutional Review. Why the double representation?

Mr. Temporary Deputy Chairman, Sir, I think there is something terribly wrong with this list here and something needs to be done about it because asking us to take it as it is and in fact, implying that you have very many professional organizations here--- The only professional organization is the Law Society of Kenya and---

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Dr. Eseli! We have already disposed of that issue and the Committee has agreed the number of 30 organizations to be retained. That is something we voted on and moved on. It was the view and wish of the majority of hon. Members that the number 30 remains and we do not want to go back on an issue that we have voted for.

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I have a further amendment to that amendment.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Bett! Let me consult.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Kajembe): Mr. Temporary Deputy Chairman, Sir, I stand on a point of order to---

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Kajembe! I have already given Mr. Bett the Floor to continue!

Mr. Bett, would you move your further amendment!

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I must state that we have locked ourselves in a problem by saying what we have said.

Secondly, I am not intending, in any way, to change the number. However, in the name of fairness and equity in representation, I would want to propose that the membership of the National Council of Churches of Kenya (NCCCK) and its children; members, be one.

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Dr. Khalwale, would you be patient enough? We want to hear what Mr. Bett has.

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I have nothing against the members of NCCCK. However, I believe very strongly that when they are in the umbrella body, they will represent the interest of that sector completely. If you break it and remove two out of that basket; the Presbyterian Church of East Africa (PCEA) and Anglican Church of Kenya (ACK), there is nothing that will stop the Evangelical Association of Kenya (EAK) from saying, "can we also have our two most important members in this Committee". So, why should we go into a ditch for no reason? Why should we get into a problem for no reason?

Mr. Temporary Deputy Chairman, Sir, mine is to plead for fairness and equity in representation. I agree, the Minister has said it is broad in representation. It takes care of other interests. But maybe by removing the two, we will even make the Committee even more broad. We will be bringing in other institutions which are not here already and still remain with the figure of 30.

*(Applause)*

**The Temporary Deputy Chairman** (Prof. Kaloki): Thank you. So you have moved?

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I beg to move an amendment on the amendment by the Committee.

*(Question of the amendment  
to the amendment proposed)*

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I would like to speak, not on my proposed amendment but the amendment by Mr. Bett. We now want to use the Floor of this House, when you are the chairman, to erect points of contention that will slowly build up in the public and eventually become big issues. If we think that we have not sufficiently consulted, either as a Ministry or the Departmental Committee, there is room for us to pause and allow for consultation.

I support this amendment because if we drop those two, we shall have created room for us to do two things. We would either pick out on the Kenya Medical Association (KMA) and bring it in, as I proposed in my amendment or in the position left we include a clause that will accommodate what the Minister said. In other words, this Committee identified in Clause 21, that we will invite any other association. So in that Schedule, there should be number 30 that would read:-

"Any other association"

So that when they are there, they can chose KMA, architects or engineers. Otherwise, Minister, if you are going to erect points of contention here, you are quickly forgetting what happened to us in Bomas. In Bomas, we felt that we were strong Ministers of the Government and did not realise that the public was with the Opposition then. When we went to the referendum, we lost an opportunity. These are really small things, let us tidy them up, allow the house to look good and give it to the public.

I support the amendment.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Kajembe): Mr. Temporary Deputy Chairman, Sir, this item of further amendment has been exhausted. We have disposed of this item. As a Member of this House, I am getting worried when we continue repeating the same subject matter which we have disposed of.

Mr. Temporary Deputy Chairman, Sir, this House has its dignity. I will not just keep quiet when I see us lower the dignity of this House. How come we are discussing the same issue that we have exhausted? Let us maintain the dignity of this House.

**The Temporary Deputy Chairman** (Prof. Kaloki): Order, Mr. Kajembe! Mr. Bett is moving a different issue. It is completely different from the one we disposed of. He is now specific on particular groupings. He is talking about the churches which need to be deleted from the list. We are going to vote in a minute.

**The Minister for Education** (Prof. Ongeri): Mr. Temporary Deputy Chairman, Sir, I have some difficulty with the just proposed amendment to the amendment. By that action, Mr. Bett has indicated the Seventh Day Adventist (SDA) as being a member of the evangelical group. They are not! Therefore, it will be a fatal mistake to make an amendment on an amendment including a faith which is not an express member of the evangelical group. That is where the fatality of this amendment comes in.

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I would like to correct the Minister. He has just arrived in the House and wants to be knowing all these things immediately. If you look at my letter to the Speaker, it says SDA is a member of the NCKK and not evangelical group.

**The Temporary Deputy Chairman** (Prof. Kaloki): Hon. Members, I would like to dispose of this amendment to the amendment by Mr. Bett.

**Mr. Abdikadir:** Mr. Temporary Deputy Chairman, Sir, as indicated, this was the most contentious issue. It was difficult to bring these groups into interface with this process. You can see how much contention it has created. I think they hurriedly organized consensus. So, I wish to withdraw the entire Fourth Schedule so that the section is left open for the Committee of Experts to try and make the decision on which members of the civil society or professional organizations they will wish to bring in.

**Mr. Bett:** Mr. Temporary Deputy Chairman, Sir, I want to thank the Chair and also the Minister for her intervention and her wise counsel. I agree with the withdrawal of the Fourth Schedule.

*(Fourth Schedule withdrawn)*

*(Title agreed to)*

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Prof. Kaloki): Dr. Khalwale, you are overruled! Could you, please, resume your seat?

*(Clause 1 agreed to)*

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

*(Question proposed)*

*(Question put and agreed to)*

*The House resumed*

*[Mr. Deputy Speaker in the Chair]*

## REPORT, CONSIDERATION OF REPORT AND THIRD READING

**Prof. Kaloki:** Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered The Constitutional of Kenya Review Bill and approved the same with amendments.

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

**The Minister for Education** (Prof. Ongeru) Seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to move that the Constitution of Kenya Review Bill be now read the Third Time.



**The Assistant Minister for Medical Services** (Mr. Mungatana) seconded.

*(Question proposed)*

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I am very sorry that during the Committee of the whole House I stood on a point of order. I was not trying to interrupt business. I just wanted to be guided as to the consequences of dropping the Fourth Schedule, and then leaving this draft Clause 27A to stand; this clause is introducing the Fourth Schedule. I am glad that the good lawyer, the Minister and the other good lawyer, Mr. Abdikadir, have told me that when the drafters will take up the matter, they will do the cleaning up exercise and mop out Clause 27A.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I wish to thank the Chairman of the Committee on Administration of Justice and Legal Affairs for the very good amendments that they have proposed to this Bill. I also thank all the hon. Members who have sat patiently and improved this Bill. To my brother Dr. Khalwale, I wish to indicate that even if the Fourth Schedule is non-existent, if you look at Clause 27A, it says:-

"---without prejudice to the powers vested in the organs of the review."

There are other clauses of the Review Bill, for example Clauses 21 and 27.

Mr. Deputy Speaker, Sir, I would like to end by thanking the hon. Members and saying that the Bill will work as it is, and that the consensus-building that has been reflected in the dropping of the Fourth Schedule is indicative of the way forward in this process.

*(Question put and agreed to)*  
*(The Bill was accordingly read*  
*the Third Time and passed)*

#### ADJOURNMENT

**The Deputy Speaker:** Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow 5th November, 2008 at 9.00 a.m.

The House rose at 6.30 p.m.