

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday 30th July, 2008

The House met at 9.00 a.m.

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

PRAYERS

### QUESTION BY PRIVATE NOTICE

ALCOHOL CONTENT  
IN ALVARO DRINK

**Mrs. Shabesh:** Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Industrialization the following Question by Private Notice.

(a) Could the Minister confirm whether there is any alcohol content in Alvaro, a drink sold as a non-alcoholic drink by East African Breweries Limited (EABL)?

(b) Could the Minister table evidence from the Kenya Bureau of Standards (KEBS) on the contents of the drink?

(c) Could the Minister stop the sale of this drink pending the establishment of its actual contents?

**The Minister for Industrialization** (Mr. Kosgey): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) According to the results of the independent samples of the Alvaro tested at the laboratories of the KEBS Ref.KS. No.2456 sampled on 23rd July, 2008 and another one sampled on 28th July, 2008, Alvaro has no alcoholic content.

(b) According to the results again, Sample No.S7508-09 which was sampled on 22nd July, 2008 and tested by the Government Chemist, no ethanol was detected and reports of Ref. No.P/--- These are references of the samples issued and whose certificates were also issued.

Alvaro is a carbonated non-alcoholic drink which does not involve any fermentation process or fortification with spirits during its manufacture. I have seven results from KEBS which I will table.

(c) The laboratory results conducted by the KEBS revealed that Alvaro conforms to the KEBS KS05-358-1999 specification for carbonated and non-carbonated beverages. Therefore, the issue of stopping the sale of this drink does not arise since no alcohol has been detected. I will table the analysis from the KEBS for all those samples. I will also table a certificate of analysis from the Government Chemist here.

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

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, while I thank the Minister for his

answer, could he confirm whether there is a standard used by the KEBS in terms of alcohol content that they use to classify a drink as alcoholic or non-alcoholic? I ask this question because some laboratories of reputable schools in this country have tested this drink and have found traces of alcohol. So, is there a level that the KEBS uses to classify whether a drink is alcoholic or non-alcoholic?

**Mr. Kosgey:** Mr. Temporary Deputy Speaker, Sir, I have a standard which is published. It is called "Standard KS05358-1999". In this standard, it is said that it covers carbonated waters, flavoured carbonated beverages, flavoured carbonated beverages containing nutrients or nutritive sweeteners, non-carbonated beverages containing nutritive or non-nutritive sweeteners and in the test, it shows what alcohol should contain. Let me table it so that I do not have to read the whole thing but I think Ms. Shabesh is asking what it should be classified as. It is non-alcoholic.

**The Temporary Deputy Speaker** (Mr. Imanyara): Just table it, please.

**Mr. Kosgey:** Just a minute, Mr. Temporary Deputy Speaker, Sir. I do not think I have given justice to her answer because she has said that some laboratories have found Alvaro to be alcoholic. I would like to see that laboratory test which she has quoted. I think it is just a rumour. We have not received any laboratory test results that have actually found this drink alcoholic.

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

In the Government Chemist, they actually detected zero alcohol content. Secondly, in the Kenya Bureau of Standards (KEBS), the detection was also zero alcohol content. So, we would like to see the alleged school laboratory reports. We also require that the names of those laboratories be laid on the Table here.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, as you can see, the Minister is not very sure of what he is talking about. But, nevertheless, the bottle of Alvaro is the same that is used for bottling beer; the colour is also the same for beer and the foam is also the same for beer. The perception, if this is a drink---

Mr. Temporary Deputy Speaker, Sir, this issue is in Parliament because schools have raised it. That drink has tested positive in schools! What we want to know from the Minister is this: If school heads are concerned that it is alcoholic, could you confirm--- The Question was: Is there a criteria where KEBS could say whether it is alcoholic or not?

Mr. Temporary Deputy Speaker, Sir, in any case, students have discovered that when the drink is exposed for just one hour, it turns to pure alcohol!

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. C. Kilonzo! The Minister has said that the drink contains zero alcohol content. Could you ask your question!

**Mr. Kosgey:** Mr. Temporary Deputy Speaker, Sir, you know, we must remain honourable in this House. We should continue to be honourable even outside this House! When you make statements, you must be factual! You know allegations will not pass! If you have any laboratory tests, because if there was alcohol in this drink, we, as a Government, will be losing money because we tax the content of alcohol. That drink is taxed as a non-alcoholic carbonated beverage! The tests done by the Government Chemist and KEBS show that the alcohol content is zero! So, an allegation that--- I would like to know which schools did that test.

Mr. Temporary Deputy Speaker, Sir, I think the hon. Member is not being fair! If you have a laboratory test which has proved that the drink contains alcohol, lay it on the Table here!

**Mr. C. Kilonzo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My question is very simple! When that product is exposed in sunshine for one hour, it turns alcoholic. That is what is causing the disturbances in schools! When you went to test it, you did not expose it for one hour!

So, I want confirmation---

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order?

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, is he in order to say that hon. Members are not honourable? We are putting facts here!

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Whereas it is the right of every hon. Member to ask any question, but this is a war between East African Breweries and Coca Cola. Is it in order for hon. Members to side with one of the companies? Is it in order?

**Mrs. Shabesh:** On a point or order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Members in this House to think that some of us are not honourable, when this Question was brought to me by schools which have tested that drink in their labs?

Mr. Temporary Deputy Speaker, Sir, I am ready to name the schools. Before I brought this Question, I asked the brewers this very question before I thought it was necessary to bring it to this House. That is because I did not get the right answer! That is why the laws are made in this House! That is why we bring issues here! I think the hon. Member must withdraw!

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order!

Hon. Shabesh, you said you are prepared to lay the results on the Table. When would you like to do that?

**Mrs. Shabesh:** Mr. Temporary Deputy Speaker, Sir, I will lay the names of those schools on the Table---

**Hon. Members:** Now! Now!

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I think it is only fair that, if those schools brought the issue to me in total confidence of my ability to bring this Question to Parliament, it is only fair that I consult them about laying their names on the Table here.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): On a point of order, Mr. Temporary Deputy Speaker, Sir.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order!

Mr. Ojode, what is your point of order?

**The Assistant Minister of State for Provincial Administration and National Security** (Mr. Ojode): My point of order, Mr. Temporary Deputy Speaker, Sir, is this: We do not want the Questioner to bring the names of the schools. We want the results of the laboratory tests to be laid on the Table.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! That is valid, hon. Shabesh! That is valid. When will you lay the results of the laboratory tests on the Table?

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Order!

**Mrs. Shabesh:** Mr. Temporary Deputy Speaker, Sir, I will ask the schools to bring the results to me and I will lay them on the Table by next week.

**Mr. Linturi:** On a point or order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! If there is no supplementary question--- Mr. Linturi, do you have a supplementary question?

**Mr. Linturi:** Yes, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Ask it and then I will make a ruling on the issue!

**Mr. Linturi:** Thank you, Mr. Temporary Deputy Speaker, Sir. If I recall, last week, I raised the issue on the ability of the KEBS in maintaining quality and giving the qualitative analysis of any particular good that is in the market. Those that have been very keen on reading the newspapers have seen the non-alcoholic natural alternative drink referred to as Alvaro being advertised. The trademark or logo for KEBS is beside that advert.

Mr. Temporary Deputy Speaker, Sir, I want to quote Mr. Karanja, who is the Strategic Manager of East African Breweries, who said the following at the launch of that drink:-

"Alvaro is a drink that is targeted at the age between 24 years and 35 years. It is targeted at a group that is full of fun, sophisticated and adventurous!"

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, if that is what the Strategic Manager, indeed, clearly said during the launch of Alvaro, and the Ministers has said that, that drink does not have any alcoholic content--- Hon. C. Kilonzo had clearly indicated that immediately after opening the drink and the contents come into contact with air, they are bound to ferment.

**An hon. Member:** *Umelipwa?*

**Mr. Linturi:** Mr. Temporary Deputy Speaker, Sir, this is not rocket science. We believe it has alcohol and I think the Ministry should go into deeper straits to exactly analyze that drink, because I think it is the major cause of the problems that we are having in this country and it is ruining our students!

*(Applause)*

**Mr. Kosgey:** Mr. Temporary Deputy Speaker, Sir, we have been in this House for quite a long time. This is Question Time and not the time for making speeches.

Nevertheless, Mr. Temporary Deputy Speaker, Sir, let us not lose sight of the Question. The Question is whether Alvaro has some alcohol or not. Now, we are being told that when they expose it to air, it ferment or whatever it is---

Mr. Temporary Deputy Speaker, Sir, the Question that was asked is: If you go to any bar, anywhere or to the breweries and pick a sample of Alvaro--- I picked one yesterday from a bar and I actually drank it. It was non-alcoholic as far as I was concerned. We have taken it to KEBS laboratories and Government Chemist. I am open to any other laboratory testing that drink. But, so far, the two laboratories have detected no alcohol! Now, I would like to be told which school or university laboratory actually tested that drink---

**Mr. Linturi:** On a point or order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Linturi! Let the Minister complete.

**Mr. Kosgey:** Relax, Mr. Linturi! Relax!

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Minister! You cannot address the Member directly.

**Mr. Kosgey:** Mr. Temporary Deputy Speaker, Sir, the point is still the same: Has Alvaro got alcohol or not? As far as we are concerned, from the results conducted by the Kenya Bureau of Standards Laboratory and the Government Chemist Laboratory, there is no alcohol.

Thank you.

**Ms. A. Abdalla:** Thank you, Mr. Temporary Deputy Speaker, Sir. While appreciating the contribution of the East African Breweries to the Exchequer and to the Government income, I would want to know from the Minister for Industrialization, given that the Kenya Bureau of Standards is a public institution, what standards do you have when the public asks for a test to be undertaken? We, as female Members of Parliament, asked hon. Shabesh to go to the Kenya Bureau of Standards to ask for Alvaro to be tested and she was told that she would not be given the result until after three months. How long does it take to give results of tests if the Minister is not protecting the East African Breweries Limited?

**Mr. Kosgey:** Mr. Temporary Deputy Speaker, Sir, the samples I have just given to the House were taken on the 23rd---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, the Member is saying that it takes three months to get the results; how long does it take to get results from the KEBS?

**Mr. Kosgey:** Mr. Temporary Deputy Speaker, Sir, I am just saying that these samples were taken and the results were given almost the same day. Testing for alcohol content is not a big problem. It is a few hours exercise. So, it is not something that can take months. In fact, if you look at what I have given out here, it is a series of samples that were taken. They were tested and results tabulated. So, it is something you can go and request. You can take your sample now and you will be able to get the results, probably even the same day.

**The Temporary Deputy Speaker** (Mr. Imanyara): Last question, Ms. Shabesh!

**Mrs. Shabesh:** Mr. Temporary Deputy Speaker, Sir, I would just like clarity on one simple issue that is really the basis of this Question. This drink is marketed as "an adult non alcoholic" drink and this has been quoted here. Could the Minister tell us in a simple way that is understandable to Kenyans if this drink is meant for children who are now the greatest consumers; I mean primary and secondary school children? Is this drink meant for children?

**Mr. Kosgey:** Well, Mr. Temporary Deputy Speaker, Sir. You know the Question I was asked was whether there is alcohol or no alcohol in Alvaro. Up to now, as far as we are concerned, the results from the two laboratories show that it is a non-alcoholic drink. Now who drinks it? Those who can afford it. It can be drunk by adults and anybody who can afford. Since it is non-alcoholic, it can be drunk by children.

**The Temporary Deputy Speaker** (Mr. Imanyara): Ms. Shabesh will table the results on Tuesday next week at 2.30 p.m. Do not name the schools but you must table the results as you have promised this House.

Next Question, hon. Peter Mwathi!

## ORAL ANSWERS TO QUESTIONS

### *Question No.197*

#### NUMBER OF ECD TEACHERS IN LIMURU

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

(a) whether the Ministry still trains teachers for Early Childhood Development

(ECD);

(b) whether he could clarify if scheme of service exists for these teachers and, if not, explain steps he is taking to ensure that the trained manpower does not go to waste; and,

(c) what the current number of these teachers in Limuru Constituency is.

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

(a) The Ministry provides training to Early Childhood Development (ECD) teachers through a two year in-service diploma and certificate course. The objective is to equip the ECD teachers, trainers and other personnel with the relevant skills, knowledge, communication and managerial capacities and foster a right attitudes towards the Early Childhood Development (ECD) Education. The Kenya Institute of Education (KIE) has also developed curriculum for both in-service and pre-service mode. The curriculum is also being followed in private colleges registered to offer ECD Education training.

Through this programme, the number of trained ECD teachers has increased from 44 per cent in 2000 to 54 per cent in 2008. This is attributed to the increase in number of fully fledged District Education Centres for Early Childhood Education (DICECEs) from 31 to 35 and the introduction of the ECD diploma course in 2007, as well as the increased number of private ECD teachers training colleges.

A National Early Childhood Development Policy framework and Service Standards Guidelines have been developed and launched in February, 2007, which, among others, is helping to streamline the training programme.

(b) There is no scheme of service for ECD teachers at the moment. They are hired by parents and local communities. However, the Ministry is in the process of developing a national scheme of service for these teachers in readiness for mainstreaming 4-5 years old children into primary circle by 2010.

(c) The ECD statistics in Limuru Constituency is as follows:-

Number of ECD teachers	382
Number of ECD centres	159
Enrolment in the Centres	6923

**Mr. Mwathi:** Mr. Temporary Deputy Speaker, Sir, I need further clarification from the Assistant Minister as to when the programme of training ECD teachers started in the country and why it has taken so long to establish a scheme of service for these teachers.

**Mr. Mwatela:** Mr. Temporary Deputy Speaker, Sir, I do not have the details as to the exact date that this programme of training teachers started. But it has been an ongoing programme for many years. It should be noted that the training of ECD teachers is done by very many private institutions, but the syllabus is drawn by the Kenya Institute of Education and the examinations are set by the Kenya National Examinations Council, which is the examining body. It is the programme of the Ministry that by 2010, all the ECD centres will be amalgamated into the primary circle and will become part and parcel of the primary schools.

**Mr. Letimalo:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister in his answer said that the ECD teachers are employed by local authorities and other organisations. What is the role of the Ministry to ensure that these ECD teachers follow the standard guidelines?

**Mr. Mwatela:** I would emphasize again that the syllabus of the ECD teachers is drawn by the Kenya Institute of Education and the examining body is the Kenya National Examinations Council. Currently, a number of the centres are attached to primary schools and those are administered under the primary school management. Other ECD centres are managed by the District Centres for Early Childhood Education and that is a Government body.

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, considering that education is the basic ingredient in any country, I would like the Assistant Minister to tell us why that has taken so long. Why has he not considered putting those teachers into the mainstream level of education? Standard One classes are generally drawn from Early Childhood Development (ECD) centres. Why is he not putting emphasis on that group of people? Their salaries are paid by the parents. That is making the children not go for ECD and hence, denying them a basic foundation in Standard one.

**Mr. Mwatela:** Mr. Temporary Deputy Speaker, Sir, the Ministry has a programme to build a system of primary schools, including ECD centres, in this country by the year 2010. At the moment, the process is on-going and the Ministry is trying its best to ensure that, that is implemented as programmed

**The Temporary Deputy Speaker** (Mr. Imanyara): Last question, hon. Mwateli.

**Mr. Mwathi:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister seems to be insensitive to that very important group of people. I would like him to assure this House that, within the next one year and in the coming financial year, he will put in place a scheme of service for those very important teachers.

**Mr. Mwatela:** Mr. Temporary Deputy Speaker, Sir, the Ministry of Education is not insensitive to the early childhood development of our children in this country. Indeed, that is why we have in process--- This is year 2008. By 2010, we will have all the teachers being mainstreamed in the system of our schools. They will be paid by the Teachers Service Commission like all the other teachers.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by hon. A. Abdalla!

*Question No.178*

IMPLEMENTATION OF REPORT  
ON PRESIDENTIAL COMMITTEE  
ON MUSLIM CONCERNS

**Ms. A. Abdalla** asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he could confirm that the Presidential Action Committee on Specific Concerns of Muslims established in November, 2007 has presented its report to the appointing authority;

(b) whether he could table the report of the Committee; and,

(c) what administrative and policy measures he is taking to implement the report.

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

(a) The Committee has not yet presented its report to the appointing authority.

(b) The Minister is, therefore, not in a position to table the report.

(c) Since the report has not been presented, there are no administrative and policy measures in place for its implementation.

**Ms. A. Abdalla:** Mr. Temporary Deputy Speaker, Sir, I am truly disappointed with the contempt that the technocrats in the Office of the President treat the Questions that we bring to this House. That committee was formed at the height of the campaign period, when muslims complained about the suspension of the Bill of Rights in our Constitution, regarding the right of citizenship to 19 Kenyan muslims who were sent out of the country on allegations that they were terrorists. At that time, the muslims were concerned that, that committee would not produce a credible report. It had very outstanding members whose reputation and integrity in question, if that

report has not been presented. We are aware that, that report was presented to the Secretary to the Cabinet and Head of Public Service on 31st March, 2008. In mid-May, the hon. Affey requested for a Ministerial Statement on that same. After that, the Head of Public Service called the Committee and asked it to change the contents of the report. Could the Assistant Minister confirm that it is the responsibility of the Secretary to the Cabinet and Head of Public Service to edit and correct reports that are intended for the eyes of the President?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, the appointing authority was very serious and committed to dealing with issues affecting muslims, and so were the other parties also seeking elective positions during that period. So, I want to discount the issue that, that was just an election gimmick. The report has not been submitted because the Committee is still seeking an appointment with the appointing authority to present it. As to the---

**Mr. Abdirahman:** On a point of order, Mr. Temporary Deputy Speaker, Sir. This purely looks like a public relations exercise for muslims in this country. The team was constituted at a time when we were preparing for elections. Is the Assistant Minister in order to tell this House that the Committee was not able to get an appointment with the Head of State, when it completed its work by the end of March this year? Is he in order to tell us that they cannot find an appointment with the Head of State five months down the line? Is the Ministry serious?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, I think the appointing authority is very serious. The appointing authority will receive the report at an opportune moment. As of now, I am not familiar with the contents of the report.

**The Temporary Deputy Speaker** (Mr. Imanyara): You are the Assistant Minister in the Office of the President. The question is: When will the team get an appointment to present the report to the appointing authority?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, I will relay the message to the Cabinet Office. I am not the Minister in charge of Cabinet affairs. But the responsibility, for the moment, lies with the Ministry of State for Provincial Administration and Internal Security. **The Temporary Deputy Speaker** (Mr. Imanyara): I order that, that Question be deferred to Tuesday next week, when you will indicate to this House when the appointment will be made.

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, I cannot guarantee that I will get the appointing authority before Tuesday. Could we push it to Thursday?

**The Temporary Deputy Speaker** (Mr. Imanyara): All right! We can have it on Thursday next week.

*(Question deferred)*

*Question No.157*

GAZETTEMMENT OF NEW  
LOCAL AUTHORITIES

**Mr. C. Kilonzo** asked the Deputy Prime Minister and Minister for Local Government:-

- (a) when he will gazette new local authorities in line with the new districts;
- (b) how many local authorities the Government intends to create; and,
- (c) whether he could table the list of the proposed new local authorities.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

- (a) My Ministry does not intend to gazette new local authorities in line with the new



districts. Unlike districts which are created purposely for administration, local authorities are mandated by law to provide services and, hence, their creation should be based on their abilities to provide the said services, for example, public health, water and sanitation. The creation of more county councils will result in the fragmentation of the council resources into multiple unviable physical jurisdictions with high administrative costs.

County councils in the past have been created along the district boundaries. However, due to the inviability of a number of county councils and other local authorities, it is advisable to establish the financial viability of any local authority before it is created. That, therefore, means that the creation of new districts does not automatically translate to a similar number of local authorities.

(b) The number of local authorities to be created by the Government will be subject to the viability of the new entities as mentioned above.

(c) The actual number of local authorities to be created, has therefore, not been determined and it is therefore, not possible at the moment to table the list of proposed local authorities because we are undertaking the exercise of assessing their viability.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, it is a year since the new districts were created, when will the Ministry create the new councils?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, as I have explained, we are now undertaking this exercise. It is not because we do not want to create them. In fact, as the Assistant Minister, I am empowered to create or even abolish any local authority. However, there is no point of creating a local authority if it cannot even pay the salaries for its staff, collect garbage or plan for its land.

We are looking into all the districts that have been created. At the moment we have four types of authorities; one City Council, 45 Municipal Councils, 67 County Councils and 62 Town Councils. Therefore, if you subtract 67 from 148, you require 81 new county councils. Even the current county councils have been unable to pay salaries for their own employees. They have been unable to pay suppliers. They are always coming to the Ministry with begging bowls. We are going through that exercise.

Mr. Temporary Deputy Speaker, Sir, it is good to mention that our neighbours; Rwanda, Burundi and Uganda, have the same district, parliamentary constituency and local authorities structure. We are looking into that possibility. However, it will require certain adjustments to the current policy. We are talking to the Treasury to see if they can meet some of the staff costs. For example, in some of the local authorities, I found out that the departmental heads are paid by the Central Government. Even the councillors are paid by the Central Government. It will require a total adjustment of policy before we can come up and say that these are the new viable local authorities.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, the whole thing is based on listening. When will those authorities which have adequate revenue, like Naivasha which contributes about 60 per cent revenue for the entire Nakuru District, be gazetted as Naivasha County Council? There are those that have the revenue while others are living from hand-outs from others. When are you going to gazette those that qualify?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, this is quite a heavy exercise. Unfortunately, until you go to the ground and look at the revenue bills, that is the only time you can make a conclusion that this local authority is viable. Now that you have mentioned Naivasha, we will give it top priority so that those local authorities which are viable and can meet their services and pay for employees are created. The policy has been that whenever a district is created, a local authority is created. It will also stop this confusion of a constituency having two districts. However, this is subject to economic viability.

**Mr. Abdirahman:** Mr. Temporary Deputy Speaker, Sir, Governments change. There was one last year, there is a new one this time round with new Ministers. However, the technocrats have not changed. Activities that were undertaken in the last session of Parliament by the various Ministries need to be brought on board for continuity sake. We know that the Ministry sent a commission round the whole country during the last Parliament to take the views of Kenyans on how to set up new and viable local authorities. Honestly, they do not know what they do. I am surprised to hear there was no single mention of the activities undertaken in the last session.

Could the Assistant Minister tell this House the outcome of the commission and the councils that are viable so that services can be offered to Kenyans?

**Mr. Githae:** Mr. Speaker, Sir, as far as I am concerned, His Excellency, President Mwai Kibaki was the Head of State and Government in the last administration. He is the Head of State and Government in this administration. So, as far as I am concerned, there has really not been any change. Nevertheless, it is true that we appointed a commission which went round the country and received views. The views, however, were only based on whether the residents wanted a new authority or not. We have that report.

For cases where the residents said they want new authorities to be created, for example, Naivasha and Olkejuado, we are assessing whether they are viable or not. This is the exercise we are now undertaking. By the end of this year, we will have finished. We are talking of sending inspectors to assess 81 county councils. This is a heavy exercise that we are undertaking. I would like to assure the hon. Member that this Ministry has as much interest as all the Members of Parliament and Kenyans to make sure we resolve these issues once and for all.

Mr. Temporary Deputy Speaker, Sir, we are even going to amend the Local Authorities Act so that there is a criteria for promotion of a county council to a municipal council and even to a city council.

**The Temporary Deputy Speaker** (Mr. Imanyara): Last question, Mr. C. Kilonzo!

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, where I come from, the larger Machakos District from where Yatta District was carved, is a sand-harvesting area. So the councils are viable. I would, therefore, expect Yatta to be upgraded to a council. Nevertheless, in view of the fact that most of the councils are not in a position to pay allowances or salaries to councillors or even staff, could the Ministry consider salaries for councillors to be paid by the Central Government?

**Mr. Githae:** Mr. Temporary Deputy Speaker, Sir, that question by my friend Mr. C. Kilonzo actually confirms what I have been saying, that even some of the current local authorities are not viable. As far as the salaries for councillors are concerned, it is important for Members to listen so that they can take this message to their councils. If your county council, municipal council or local authority is in a position to pay increased salaries for councillors, make this recommendation to our Ministry and if we find that the revenue base can meet the cost, we will approve it.

In the meantime, for the Ministry to say that they are going to pay the salaries, we require change of policy. At the moment the policy is that the local authorities meet their own cost. As I have said, in neighbouring countries, some salaries are paid by the Central Government. But, at the moment that is not the Government policy in Kenya.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by Mr. Wamalwa!

*Question No.242*

RESOLUTION OF THE SQUATTER  
PROBLEM

**Mr. Wamalwa** asked the Minister for Lands:-

- (a) what the Government is doing to resolve the squatter problem which has not been addressed since Independence;
- (b) whether he could confirm how the funds set aside in previous budgets towards purchase of land to settle squatters have been utilized; and,
- (c) whether he could table the list of the farms purchased and the details of squatters settled thereon so far.

**The Assistant Minister for Lands** (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, I would like to seek for the indulgence of the Chair, the answer I have is not satisfactory in my own interpretation.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, the hon. Assistant Minister had indicated to me the position and I am willing to indulge him. I would like that the list of the farms and the beneficiaries, who are supposed to be squatters, is availed in good time.

**The Temporary Deputy Speaker** (Mr. Imanyara): How long do you require, Mr. Assistant Minister?

**The Assistant Minister for Lands** (Mr. Bifwoli): Mr. Temporary Deputy Speaker, Sir, if you can give me one week, it will be okay.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Thursday?

**The Assistant Minister for Lands** (Mr. Bifwoli): Yes, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): The Question is, therefore, deferred until next week on Thursday.

*(Question deferred)*

**Mr. Ruto:** On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is telling this House that the answer that was forwarded to the hon. Member is not satisfactory to him---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order, Mr. Ruto! Please, do not revisit issues that have been determined and a ruling made.

Next Question by Ms. Shakila Abdalla!

**Mr. Ruto:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is it on the same issue?

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, it is important that you---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Ruto! What is it that you want to clarify?

**Mr. Ruto:** Mr. Temporary Deputy Speaker, Sir, I am asking as a matter of importance. Ministers keep sending signed answers to hon. Members, but then they come here to disown them. Why do they sign the answers in the first place and then come here to tell us that they are not satisfied? Are they really still in charge or is it the Permanent Secretaries who are in charge?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Ruto! Mr. Wamalwa has said that he is satisfied that the Assistant Minister requires an answer that he feels is valid to give to this House. The right person to have raised that issue is Mr. Wamalwa.

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Question by Ms. Shakila Abdalla!

MEASURES TO CONTROL TRAWLERS'  
ACTIVITIES IN THE INDIAN OCEAN

**Ms. A. Abdalla:** Mr. Temporary Deputy Speaker, Sir, Ms. S. Abdalla has been held up due to an urgent medical matter and has requested that this Question be deferred to another date.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is the Minister for Fisheries Development present?

**Hon. Members:** He is not there!

**The Temporary Deputy Speaker** (Mr. Imanyara): He is not present. The Question is, therefore, deferred until next Wednesday.

*(Question deferred)*

*Question No.193*

MEASURES TO RAISE NUMBER OF  
PUISNE/APEAL JUDGES

**Mr. Baiya** asked the Minister for Justice, National Cohesion and Constitutional Affairs:-

(a) whether he is aware that the backlog of cases currently crippling the Judiciary, especially at the High Court and Court of Appeal, is due to limited number of judicial officers; and,

(b) what he is doing to raise the number of Puisne Judges and Judges of Appeal in compliance with the provisions of the Judicature Act, Cap.8 of the Laws of Kenya.

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Kipkorir): Mr. Temporary Deputy Speaker, Sir, the answer that I have for this Question is not satisfactory. I would, therefore, wish to seek the indulgence of the Chair that I give a satisfactory answer on Thursday next week.

**Mr. Baiya:** Mr. Temporary Deputy Speaker, Sir, I would want to have a satisfactory answer. I, therefore, would wish to indulge the Assistant Minister to give me an appropriate answer. However, I have not heard him indicate when he will do that.

**The Temporary Deputy Speaker** (Mr. Imanyara): He sought time until next Thursday. So, we will give him time until then at 2.30 p.m.

*Question No.205*

PROVISION OF RELIEF FOOD  
TO KIENI CONSTITUENCY

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Warugongo is not present? The Question is, therefore, dropped!

*(Question dropped)*

*Question No.212*

MEASURES TO STEM NARCOTICS

## TRADE IN KENYA

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Nguyai is not present? His Question is also dropped!

*(Question dropped)*

**The Temporary Deputy Speaker** (Mr. Imanyara): There was communication that there were a number of Ministerial Statements to be given. So, I will take the Ministerial Statements first before I take the other points of order. Which Minister is seeking to give a Ministerial Statement? There is none!

## POINTS OF ORDER

COMMENTS ON PARLIAMENTARY  
BUSINESS OUTSIDE THE  
HOUSE BY MINISTERS

**Mr. Linturi:** Mr. Temporary Deputy Speaker, Sir, in the recent past Questions have been raised in this House, but we have witnessed the conduct of Ministers being not quite acceptable to this House. If I may state very clearly, on 22nd July, 2008 when the Minister for Education was giving a Ministerial Statement on the unrest in schools, the Chairman of the Departmental Committee on Education, Research and Technology, Mr. Koech, raised the issue of alcohol content in the Alvaro drink. Even before the answer was brought before this House and a substantive Question by Ms. S. Abdalla been filed, we found Ministers answering this Question in the media and declaring that, indeed, Alvaro drink has no alcohol.

Mr. Temporary Deputy Speaker, Sir, I am seeking your ruling on the conduct of the Ministers who go out there to answer Questions that are already before the House and even before the HANSARD and what should be done.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Linturi, that, indeed, is a weighty matter. There will be a substantive ruling by the Speaker on the matter this afternoon after Question Time.

THE ROLE OF THE MILITARY  
DEFENCE COUNCIL

**Dr. Khalwale:** Mr. Temporary Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Defence. This is on the status quo at the Military Defence Headquarters. It is in respect of the ranking of senior military officers, recent promotions, retirements, demotions, discipline and outright dismissal from the military of senior officers.

Mr. Temporary Deputy Speaker, Sir, I seek to have the Minister clarify the following issues: One, does the Military Defence Council have a legal instrument that governs promotions, demotions, retirement and dismissal of military officers? Is this legal instrument the so-called "the Tonje Rules"? If it is so, could the Minister clarify to this House how this "Tonje Rules" compare with the best international practices? I would like the Minister to clarify by actually tabling that instrument in this House.

The Minister should also clarify whether our military is being held hostage by corruption, favouritism, nepotism, tribalism and political interference. He should also tell us whether he is

alive to the possible consequences of discontent in the military.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is the Minister present? He is not. Could anybody from the Government side give an indication on when that Statement will be issued?

**The Minister for Information and Communications** (Mr. Poghisio): Mr. Temporary Deputy Speaker, Sir. We take notice of that and we will pass it to the relevant Ministry for action.

CONFLICT OF INTEREST BETWEEN  
COCA COLA AND EABL OVER ALVARO

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to seek clarification and add something to the issue that was raised by Mr. Linturi about the conduct of Ministers. This is something that concerns me. It is the issue about what hon. Members can say here and the effect of what they say in this House to businesses outside. This morning a Question by Ms. Shabesh was asked about Alvaro drink and it was answered.

Mr. Temporary Deputy Speaker, Sir, I have seen in the media that there is war between Coca Cola and East African Breweries Limited (EABL) over the Alvaro drink. Does this really belong to the Floor or who is fuelling that war? We need guidance from the Chair!

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Midiwo! I do not think we can revisit the Question asked by Ms. Shabesh. It is coming up on Tuesday next week. You can raise that issue when you are contributing to the clarifications.

STATUS OF COMMITTEES INVESTIGATING  
SALE OF GRAND REGENCY SAGA

**Mr. Jirongo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Prime Minister's Office with regard to what is happening with the Libyans in this country.

**The Temporary Deputy Speaker** (Mr. Imanyara): Who?

**Mr. Jirongo:** The Libyans, Mr. Temporary Deputy Speaker, Sir.

On the issue of the Grand Regency Hotel, we have a Commission which was formed by the President. We also have a Parliamentary Committee that is looking into the saga of the Grand Regency Hotel sale. All of you are aware that the Libyans---

**The Temporary Deputy Speaker** (Mr. Imanyara): What is it that you are requesting?

**Mr. Jirongo:** Mr. Temporary Deputy Speaker, Sir, I wish to know why we are being taken round in circles.

**The Temporary Deputy Speaker** (Mr. Imanyara): What Ministerial Statement are you seeking?

**Mr. Jirongo:** Mr. Temporary Deputy Speaker, Sir, I am seeking a Ministerial Statement from the Office of the Prime Minister because when the Libyans were here it---

**The Temporary Deputy Speaker** (Mr. Imanyara): On what issue?

**Mr. Jirongo:** On the sale of the Grand Regency Hotel, and also on the role of the Grand Regency Hotel in this country. I want to know whether it is a favoured nation; there is the issue of the refinery, which has been given to the Libyans.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Jirongo!

**Mr. Jirongo:** There is the issue of the extension of the pipeline.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Jirongo! You are aware that there is a Committee of this House seized of that matter. You are also aware that it is tabling its

report in this House next week. If you have a Ministerial Statement to request, I will allow you to do so, but I will not allow you to anticipate the ruling of any Committee of this House that is yet to report.

*(Applause)*

Are you seeking a Ministerial Statement?

**Mr. Jirongo:** Mr. Temporary Deputy Speaker, Sir, I was seeking a Ministerial Statement to clarify the situation. In fact, I am just asking what you are saying. We already have these Committees in place.

**The Temporary Deputy Speaker** (Mr. Imanyara): I get your point now! You are seeking a Ministerial Statement regarding two Committees that are doing the same job. Is that what you are asking?

**Mr. Jirongo:** Yes, Mr. Temporary Deputy Speaker, Sir. Secondly, if that is going on, why are the Libyans saying that whatever is happening is useless, and that they had a sitting with the Prime Minister and the President?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Jirongo!  
Mr. Prime Minister!

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, I think you have already made a ruling on this issue, that we have a Commission which has been appointed under the Commissions of Inquiries Act by the President. We also have a Committee of the House, which is also investigating this matter. So, whatever we are going to be saying here will basically be trying to prejudice what is going to be done. Having said that, I do not know what the hon. Member would like us to talk about concerning the Libyans. This Government has a diplomatic relationship with the Government of the Republic of Libya. I do not know what Statement I will be required to make on this particular issue at the moment.

*(Mr. Jirongo and Dr. Khalwale  
stood up in their places)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! I think the Prime Minister has answered your question, Mr. Jirongo. Has he not?

**Mr. Jirongo:** Not really, Mr. Temporary Deputy Speaker, Sir. It is the same Government that has appointed a Commission and this Parliament has a Committee dealing with the matter. The same President and the same Prime Minister sit with the Libyans, address a Press conference and rubbish everything else that every other Kenyan is doing. That is why I am seeking a Ministerial Statement!

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! If you have a request for a Ministerial Statement from the Ministry of Foreign Affairs, you will be perfectly entitled to request it. But as of now, I do not think that is a Ministerial Statement for the Office of the Prime Minister.

Mr. Lesrima, you had a Personal Statement to make.

*(The Prime Minister stood up in his place)*

Yes, Mr. Prime Minister!

**The Prime Minister** (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, the hon. Member may be new in the House. Newspaper reports are not a source of information for this House. So, this House will not be moved to be talking about speculative matters in newspapers. They are not an accepted source of information for this House!

*(Ms. A. Abdalla stood up in her place)*

**The Temporary Deputy Speaker** (Mr. Imanyara): That is a valid point.

Ms. A. Abdalla, what is your point of order?

**Ms. A. Abdalla:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am rising with regard to the fact that every time we address issues relating to the Libyan Arab African Investment Company from Libya that is buying the Grand Regency Hotel--- Hon. Members have been alluding to the Government of Libya, which is a friendly country, in bad light, which is against our Standing Orders. Why are we still allowing that to happen?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Ms. A. Abdalla! You are actually prolonging the debate. The issues that you pick up from newspapers cannot be a basis for proper discussion in the House. If your source of information is the newspapers---

Mr. Lesrima, you had a Personal Statement to make.

*(Dr. Khalwale stood up in his place)*

### PERSONAL STATEMENT

WRONGFUL INCLUSION OF MR. LESRIMA'S NAME ON LIST OF LAND ALLOTTEES  
IN MOI NDABI SETTLEMENT SCHEME

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise under Standing Order No.69 to make a Personal Statement.

My attention has been drawn to a list of squatters allocated Government land in Moi Ndabi Settlement Scheme. I have a list here, which was dropped into my pigeon hole. I am listed as squatter No.1314 under the Moi Ndabi Settlement Scheme. I want to state before this House that I have never been a squatter, never been to Moi Ndabi and never applied for land at Moi Ndabi. If, indeed, such land exists and was inadvertently allocated to me, I want it repossessed by the Minister for Land for re-allocation to genuine squatters.

I table the list here.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Dr. Khalwale, what is your point of order?

**Dr. Khalwale:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I am just concerned that after the Prime Minister has just responded--- It is becoming clear that in spite of the House having taken a position that this matter is with a Departmental Committee, and in spite of the President having taken up the matter and appointed the Cockar Commission, the Prime Minister is here disowning what he did yesterday and wanting us---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Dr. Khalwale! You do not



revisit matters where decisions have been made and a ruling made by the Chair. Please, abide by the rules of this House.

Is there any Ministerial Statement that was coming up this morning that is due?

**Mr. Mureithi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Yesterday, in this House, we ruled that a position taken by an hon. Member on Sunday in Kinangop South should be brought to the House next week, yet it was from the Press.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Muriithi! I have just given an indication to the House that, that issue will be the subject of a substantive ruling by Mr. Speaker this afternoon. If you have any clarification to seek, you can do so at 2.30 p.m.

Next Order!

### MOTIONS

#### LEAVE TO INTRODUCE BILL TO AMEND SECTION 45 OF THE CONSTITUTION

THAT, this House do grant leave to introduce a Bill for an Act of Parliament to amend Section 45 of the Constitution of Kenya to provide for gender parity, regional balance and inclusion of persons other than Members of Parliament in the Parliamentary Service Commission and for matters incidental thereto and connected therewith.

*(Ms. A. Abdalla on 23.7.2008)*

*(Resumption of Debate  
interrupted on 23.7.2008)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Ms. A. Abdalla, you have ten minutes of your time on this Motion.

**Ms. A. Abdalla:** Thank you, Mr. Temporary Deputy Speaker, Sir. I started last week by submitting why we should, as a Parliament, allow non-sitting hon. Members to serve in the Parliamentary Service Commission (PSC). I said then that we will only manage human excesses that can take place in the PSC by bringing in an external person, who is not faced by the realities that sitting hon. Members might be facing at a particular time when they are Members of this House. So, the inclusion of non-sitting hon. Members is to bring moderation in the decisions of the PSC to serve as a conscience to the Commission, as an internal auditor of the actions and decisions that the Commission must make.

I must confess, as a trade unionist, that the PSC, has done great work, but this does not mean that hon. Members have the monopoly of ideas to change how Parliament is run, how staff are managed and how the welfare of hon. Members can be improved. So, it is in that light that I would like to ask the House to allow for people who are not living the realities of a sitting hon. Member to inject different wisdom into the PSC by including them in it. This will help us deal with the public relations nightmare that Parliament is currently suffering. It is very difficult for us to go against our peers on any issue; so, it is the same for the PSC. If you are all hon. Members in it, you will not question what your peers are supportive of.

Mr. Temporary Deputy Speaker, Sir, most Members of Parliament are in support of the Bomas Draft Constitution, which contains a recommendation to have people who are not sitting Members of Parliament to sit in the Parliamentary Service Commission (PSC). In other jurisdictions such as Swaziland, Nigeria and the Southern Sudan, parliaments have PSCs that have

non-sitting Members of Parliament working with sitting Members of Parliament.

Last year, we made the Minister of State for National Security wish that there was no Question Time, because we questioned him on regional and district balance of their recruitment exercises. The only way the gentleman managed to evade the questions was by invoking the Government Secrets Act.

This House has a PSC which completely overlooks three provinces of this country which apply the now emerging fad in the political scenario, namely, the one man, one vote scenario, where people who come from larger communities fill up the PSC, while the minorities are overlooked.

Mr. Temporary Deputy Speaker, Sir, I am not asking for the PSC to apply the Jacksonian myth of everybody having to sit down on the decision-making table. What I am saying is that if we want to have the moral authority to talk about nepotism in this country, we must begin with the PSC, because the "content" of the PSC reflects the staffing in the Parliamentary Service. The current PSC has no representation from the North Eastern, Coast and Nairobi provinces. It also does not have a woman. That needs to be remedied. The reason as to why we need to remedy this is because each time we come here and say we want a Commission set up, we say that the Commission should have a minimum of eight Members, so that it can have a regional outlook.

A membership of eight Members is expensive for this country, but it is a cost which most of us overlook because we think that it will be able to facilitate regional balance. The current PSC does not have that balance. Even the previous PSC did not have that balance. So, we want to ensure that in the next Parliament, the composition of the PSC reflects regional balance. That is why I am calling for this amendment.

Mr. Temporary Deputy Speaker, Sir, on the issue of gender, if today I decide to be disorderly, and another female hon. Member decided to be disorderly, and you wanted to forcefully remove us from this Chamber, you do not have sufficient female members of staff in the Serjeant-At-Arms Department. So, you will be forced to ask Mr. Wendo to get rid of me, which is a reflection of the fact that there is no gender equity in the employment of staff to serve in the Parliamentary Service.

The Parliamentary Service Act states in Section 5(2)(a) that part of what the Commission will promote is gender equity and respect for the rights and freedoms of others as one of the values of the Act. How do we expect that to trickle down if the Commission itself does not respect that value?

Mr. Temporary Deputy Speaker, Sir, some hon. Members have the mistaken notion that I have this Motion as an indictment of the people serving in the current PSC. I would like to state categorically that, that is not the intention of my Motion.

My intention in bringing this Motion here is for us to work on the principle that the current PSC Membership serves its five year term, but let us not allow this mistake to be repeated in the next Parliament, which is why we need this amendment.

Some hon. Members have asked why I want to limit the discretion that has been given to party leaders to decide who sits on the PSC on behalf of their parties. This House passed the Kenya National Commission on Human Rights Act, which limits the discretion of the President, who is elected by millions of Kenyans.

Mr. Temporary Deputy Speaker, Sir, if Parliament is able to say: "Mr. President, we will limit you to these three people. Choose one of these three persons to be commissioner", why should we not be able to limit the discretion of party leaders? Some of us argue that if a party leader has Members of Parliament from the Coast and North Eastern provinces but he does not nominate them to sit on the PSC, then those communities will be able to punish the party leader in the next general election. We do not even know which parties the current party leaders will be in by

the time of the next general elections.

We must seek protection from the Constitution from the excesses of party leaders, who preach water and drink wine. They sing everywhere that they promote gender and regional balance but when push comes to shove, they are not able to implement what they keep preaching.

With those few remarks, I beg to move and ask Ms. Shabesh to second the Motion.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I rise to second the Motion. I will start by urging the PSC to lead by example on an issue which has brought a lot of concern to the citizens of this country; the exclusion of some sectors which play a vital role in enhancement of living as one community in this country.

Mr. Temporary Deputy Speaker, Sir, this Motion is simply asking for fairness in respect of women, young people and the diverse communities represented in this House. We have raised this issue as women parliamentarians for long, and we are beginning to sound like a broken record. We have talked about inclusion of women, people with disabilities and young people in bodies that govern this country, including parastatals and commissions.

Mr. Temporary Deputy Speaker, Sir, the President of this country has pronounced more than three times that appointments to any public body must contain the one-third affirmative action principle, but this principle is never observed. So, we are asking: Do pronouncements by the President of Kenya no longer hold any authority? When the President said that the Government would introduce free secondary education, it was immediately implemented. Why is it that when the President speaks on the issue of gender parity, it is ignored? So, we are asking that this House takes the pronouncements of the President seriously.

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

**The Temporary Deputy Speaker** (Mr. Imanyara): What is it Mr. Mungatana?

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I rise on a point of order to bring to your attention an anomaly in this Motion, which renders it undebatable in its current format. This Motion seeks to amend Section 45 of the Constitution of Kenya.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Mungatana, the Motion seeks to amend Section 45B of the Constitution!

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, the Motion, as it appears on the Order Paper, seeks to amend Section 45 of the Constitution, which does not exist. Therefore, this Motion cannot be debated. Section 45 was deleted by the Constitution of Kenya (Amendment) Act No.3 of 1999. Therefore, this Motion, in its current form, cannot be before this House. It is not properly before this House, and it must be withdrawn.

Thank you.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, let me just point out that the Chair is aware that there is an error on the Order Paper. Instead of "Section 45", it should be reading "Section 45B". I have that on my Order Paper. So, if your Order Paper does not have the letter "B", you should add it. Section 45B is, indeed, in the Constitution.

**Mr. Kioni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. On the same issue, it appears like all the other Order Papers do not have Section 45(b), other than that of the Chair.

**The Assistant Minister for East African Community** (Mr. Munya): Mr. Temporary Deputy Speaker, Sir, the issue raised by Mr. Mungatana is very important because all our Order Papers do not have Section 45(b). I am just seeking the guidance of the Chair. Are you raising an

amendment to the Motion or what exactly are you saying when you say that we add "b". Are we amending the Motion?

**The Temporary Deputy Speaker** (Mr. Imanyara): I get the issue but, if you look at the HANSARD and the report, you will note that it is written as 45(b). The typographical error by the Office of the Clerk does not annul this Motion because it was actually proposed. I have confirmed from the Clerk-at-the-Table that, that Motion was proposed as Section 45(b). So, let that matter rest.

Proceed, hon. Shabesh!

**The Minister for Information and Communications** (Mr. Poghio): Mr. Temporary Deputy Speaker, Sir, I just want to seek the indulgence of the Chair in the matter that is the tradition of this House. Is there an amendment to the Order Paper?

**The Temporary Deputy Speaker** (Mr. Imanyara): There is no amendment. It was proposed as Section 45(b). There is a correction on the Order Paper, which I have indicated that the House should read it as Section 45(b). That is the Motion on the Floor. We will proceed with this Motion!

**Mrs. Shabesh:** Mr. Temporary Deputy Speaker, Sir, I was raising the issue of the authority of the pronouncement by the President. I was urging this House to lead by example and show that the pronouncements of the President mean something.

Also, on the issue of regional balance, we have seen - after what we have gone through in this country - that we are striving to bring national cohesion in this country. I do not think it will be asking much to ensure that the Parliamentary Service Commission ensures that regional balance is adhered to in its formation. I think it will be able to serve this Parliament and the people of this country better.

Mr. Temporary Deputy Speaker, Sir, let me talk about balancing in our commissions or any other public body. We will not do it in vain because we know that, in order for a society to operate in a way that everybody feels included--- We know that, sometimes, we have to go out of our way to practice affirmative action whether it is for women, young people, people with disabilities or marginalised communities.

Mr. Temporary Deputy Speaker, Sir, this Motion is really calling for fairness. We should amend that Section of the Constitution of Kenya that would allow the Parliamentary Service Commission to lead by example and have those different sectors included. If we do so, it will be a loud signal to the people of Kenya and the sectors that have been mentioned here that they are part and parcel of this country.

With those remarks I beg to second.

*(Question proposed)*

**The Assistant Minister for Medical Services** (Mr. Mungatana): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to debate this Motion. I am for all women in this country. I am with the spirit of this Motion. We must create the regional balance that is required. That issue is crucial when it comes to the appointment to the Parliamentary Service Commission.

I wish Ms. Abdallah had stopped at that point. That is because, then, we would have no problem in passing this Motion. But the wording of this Motion puts me in a position of saying that I will not support this Motion. I want to give my reasons.

At the end of the Motion, it says:-

"Inclusion of persons other than Members of Parliament in the Parliamentary Service Commission and for matters incidental thereto and connected therewith."

Mr. Temporary Deputy Speaker, Sir, this House is being asked to get non-Members of Parliament to sit and determine our in-house issues. It is a very dangerous Motion! I hope hon. Members are listening. We cannot surrender the control of this House and matters pertaining to us to people other than ourselves. That cannot happen!

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, the history of setting up the Parliamentary Service Commission is a long one! Members of this House had to queue to get their salaries. Members of this House were living like paupers. There were no proper terms of conditions. There was nothing. Nothing was being taken care of because all those powers were with the Executive. People other than Members of Parliament were running the affairs of Members of Parliament. What happened was that Members of Parliament had no freedom. One would be called and told to do something or something would happen. There was no security.

Mr. Temporary Deputy Speaker, Sir, we cannot rubbish that history that made us to establish our own independent Parliamentary Service Commission! We cannot sacrifice it today under any circumstances. When we speak about the independence of Parliament, it is a long history. That goes with the principle of the separation of powers of the Executive, Legislature and Judiciary. Parliament had become, not a supreme expression of the will of the people of Kenya, but an organ of the Executive. It became an appendage of the Executive. The people of Kenya need to see Members of Parliament. History can bear us witness! It even runs now in the records of television! Members of Parliament here disagreed with the Executive and they were picked from this House. We cannot allow those days to return.

We are not against amending this Motion to bring in women and have a regional balance. But we cannot surrender the independence of our Parliament. Section 45(b) goes on to explain the work that the Parliamentary Service Commission is supposed to do. Part (e) states:-

"Provide such services and facilities that are necessary to ensure efficient and effective functioning of the Assembly. Part (h) states:- "From time to time as is necessary, to appoint an independent body to review and make recommendations on the salaries and allowances of members of the Assembly."

That cannot be done by people who are not parliamentarians. If you look at the trade unions, you will realise that people who sit in the management of those unions are people who practice those professions or trade. They are the ones who sit to determine the issues that affect their membership.

Let us look at our neighbours in East Africa. I had a look at the membership of the Ugandan Parliamentary Service Commission and they are all Members of Parliament. The members of the Tanzanian Parliamentary Service Commission are all Members of Parliament. Within this economic regional bloc, we cannot act outside it. I will bring to the attention of the hon. Members that we try to harmonise the presentation of the Budget for the East African countries so that they are read on the same day. Our Ministers are always consulting. We have even created the Ministry of East African Community Affairs. This means that we want our things to be together. If the parliaments of the East African Community have Members of Parliament looking after their own issues, how can we, in Kenya today, pass a Motion that takes us away from what our regional partners are doing? This cannot be the way forward.

What we are seeking to do today in this Motion is to say that people other than ourselves be nominated to the Parliamentary Service Commission. When we talk like that, the example that comes to mind is Ghana. We are told that in Ghana, the people who sit in their Parliamentary Service Commission are people other than the Members of Parliament. Who are they? These are

retired civil servants? Are we saying that this Parliament cannot produce Members who can look after us and take care of our issues? We have to depend on retired civil servants like in Ghana, to determine our issues!

After we have struggled to be elected to this House, surely, amongst ourselves, there can be people who can be charged with the responsibility of looking after the affairs of the Members. Others can sit in other Committees and others can serve in the Government. There are people amongst us whom we have given that responsibility and they are doing a fantastic job. So far, everything that is in this House, including the plan to modernise and digitalize our Parliament is coming from people who are sitting in this Parliament. They know the difficulties we have in this Parliament and they are able to articulate those issues in the Parliamentary Service Commission.

Mr. Temporary Deputy Speaker, Sir, can you imagine proposing a budget running into billions of shillings, so that we can have live transmissions, to a retired civil servant? He will say that, that does not make any sense. But a Member of Parliament knows and he is the right person to approve such budgets. Can you imagine telling a retired civil servant that we need this kind of a budget because the Departmental Committee on Education, Research and Technology needs to go out and find the truth about the students' strikes? That man will tell you: "No, go to the Permanent Secretary in the Ministry of Education and he will give you that report to save this money!"

This House has come from too far. The history is too bitter and it evokes too many bad memories for us to surrender the control of our affairs to non-sitting Members of Parliament. On that face of the Motion, I strongly oppose it. I am asking the hon. Members to strongly oppose this move. We will never be able to get back our independence once we give it up. We cannot pass this Motion. It is not possible!

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

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

Madam Temporary Deputy Speaker, I accept the issues of gender parity and regional balance. I agree with the Mover on these issues. When she brings this Motion in a proper format, we will pass it. But touching the independence of Parliament is a sacred thing. The Mover is treading on extremely dangerous ground! She can be cursed by the fore-fathers of this country. It is terrible!

With those few remarks, I beg to oppose.

**Dr. Eseli:** Thank you, Madam Temporary Deputy Speaker, for giving me a chance to contribute to this Motion. As matters stand after the last person who has contributed, you can see the vehemence of opposing this Motion.

In light of that, I wish to move an amendment to this Motion. The reason why I want to move this amendment is to amend the issue of nominating non-sitting Members of Parliament to the Parliamentary Service Commission. I accept the fact that gender parity and regional balance should be present in the Parliamentary Service Commission. When you look at the Judicial Service Commission, you will find that there is nobody who is not a lawyer in it. Members of Parliament, councillors and anybody who has stood for an elective office cannot be appointed to the Public Service Commission (PSC) until after ten years.

We have to maintain the principle of separation of powers between the Judiciary, the Legislature and the Executive. The Parliamentary Service Commission is our way of trying to maintain that independence. Therefore, I beg to move:-

THAT, the Motion be amended by inserting the word "and" immediately after the word "parity" and deleting the words "and inclusion of persons other than Members of Parliament".

I wish to ask Mr. Wamalwa to second the Motion.

**The Minister for Information and Communications** (Mr. Poghisio): On a point of order, Madam Temporary Deputy Speaker. I just want to seek the opinion of the Chair on the manner in which this amendment has been moved. I want to know whether it is properly before the House, so that we can proceed with it.

**The Temporary Deputy Speaker** (Prof. Kamar): The amendments?

**The Minister for Information and Communications** (Mr. Poghisio): Yes, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Prof. Kamar): Sorry, hon. Members, I took over this Motion in the middle of the debate. I am trying to understand the amendment and whether it is going by the spirit of the original Motion or it is negating the original Motion. Mr. Poghisio, could you raise your point of order again?

**The Minister for Information and Communications** (Mr. Poghisio): Madam Temporary Deputy Speaker, when the hon. Member stood to move the amendment, he was actually asking the rest of us to delete and to insert. He did not read out the Motion as he intends it to be after it is amended. Secondly, whether or not the amendment is properly before us also in the way the Motion will appear after we deal with that particular amendment. Is it going to go along with the Motion or is it going to completely remove the Motion from the Order Paper?

**Dr. Eseli:** Madam Temporary Deputy Speaker, the amended Motion will then read:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament to amend Section 45 of the Constitution (B) of the Constitution of Kenya to provide for gender parity and regional balance in the Parliamentary Service Commission---

**The Minister for Information and Communications** (Mr. Poghisio): On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Prof. Kamar): Let him finish with the amendment then you can raise your point of order.

**The Minister for Information and Communications** (Mr. Poghisio): On a point of order, Madam Temporary Deputy Speaker. Could the hon. Member be assisted to frame the amendment, so that he can put it before the House and we can deal with it? He needs to be assisted!

**The Assistant Minister for East African Community** (Mr. Munya): On a point of order, Madam Temporary Deputy Speaker. The hon. Member is reading the Motion as amended, but he is not reading the amendment itself. What particular part is he intending to amend? He has to be specific. You do not just amend a Motion by reading an amendment. You have to be specific in your amendment. Which particular words are you removing and substituting which words for them; then you read out the Motion as amended, and then it will be properly before the House. Right now there is no amended Motion before the House.

**Dr. Eseli:** Thank you for the guidance. Sometimes, when you are new, it takes older people to give you guidance. I do accept it and I am very grateful for it.

On the third line, we have "gender parity and regional balance". I want to insert the word "and" between the words "gender parity" and "regional balance". On the same third line after the words "regional balance" I want to delete the words "and inclusion of persons other than Members of Parliament". After that deletion and insertion then the Motion would read like this:-

"THAT this House do grant leave to introduce a Bill for an Act of Parliament to amend Section 45B of the Constitution of Kenya to provide for gender parity and regional balance in the Parliamentary Service Commission and for matters

incidental thereto and connected therewith".

**The Minister for Information and Communications** (Mr. Poghio): On a point of order, Madam Temporary Deputy Speaker. The amendment should be stated as a Motion, "that this Motion is amended by deleting and inserting words". I thought that the Clerk-at-the-Table should have helped the hon. Member to draft a proper amendment, so that it can be seconded. Basically, the spirit of it is that he is deleting the part where non-Members of Parliament are to be included in the PSC, and that is basically the spirit of the Motion. That negates the Motion completely.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, for purposes of amendments to Motions, Standing Order No.41 is very clear. It says that the Speaker may permit a Member to move in an amended form a Motion of which notice has been given if, in the opinion of the Speaker, the amendment does not materially alter any principle embodied in it. The kind of amendment that has been suggested may actually require redrafting of the Motion itself, because it changes the meaning of the original Motion completely, so that we will be debating something different from what the original Mover had. For that reason, we will not accept the amendment; instead the hon. Member should tell us whether he is supporting it or not. That will help, so that we do not bring in substantive changes at this stage.

**Dr. Eseli:** Madam Temporary Deputy Speaker, I did that intending to retain the principles of gender parity and regional balance. In the Parliamentary Service Commission (PSC) it would be important that it reflects the kind of hon. Members who are in this House, and also take care of the issue of gender. If we have the number of women in Parliament forming about 25 per cent, then definitely there should be a lady hon. Member in the PSC.

**The Temporary Deputy Speaker** (Prof. Kamar): Dr. Eseli, that is not the argument at this stage. The argument we have is how to get your amendment introduced in this Motion the way it is. Maybe, the Mover did not take care of something; so, it needs to be redrafted, in which case we may allow her to redraft the Motion and bring it back. The amendment itself is changing the substance of the original Motion.

**Dr. Eseli:** I was trying to salvage something, but as matters stand now, I am unable to salvage it; so, I oppose the Motion. I was trying to bring out the reasons why there were some good things about this Motion which we might lose. In other words, we may throw out the baby with the bath water. That is what we would be doing .

**Mrs. Odhiambo:** On a point of order, Madam Temporary Deputy Speaker. I want to start by acknowledging that I am a new Member and, therefore, I would seek your guidance. I hope that you will indulge me by allowing me to raise an issue after you have ruled on it. I know that as per our Standing Order that you have read out, any amendment should not depart substantially from the original Motion. Borrowing from my legal training, I would wish to request the Chair to tell us how the proposed amendment departs substantially, because, in my view, it does not since it addresses issues of equity from a gender, regional and professional perspective. The principle of equity still remains. If you can kindly guide us---

**The Assistant Minister for East African Community** (Mr. Munya): On a point of order, Madam Temporary Deputy Speaker.

**Mrs. Odhiambo:** Madam Temporary Deputy Speaker, as a new Member I understand that another hon. Member cannot rise on a point of order when another hon. Member is on a point of order.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Member, can you stick to your point of order. Do not debate at this stage. Just tell us exactly where you are having a problem.

**Mrs. Odhiambo:** Madam Temporary Deputy Speaker, yes, I have a problem in that you said that it is substantially departing from the spirit of the original Motion .

**The Assistant Minister for East African Community** (Mr. Munya): On a point of order,



Madam Temporary Deputy Speaker. I was wondering what the hon. Member intended, because you have already made a ruling and the hon. Member, who was on the Floor withdrew the amendment and contributed to the Motion. So, are we going backwards? You have already made a ruling on the amendment, that it substantially alters the substance of the Motion, because it is deleting a major intention of the Mover of the Motion, that of including outsiders in the Parliamentary Service Commission (PSC). So, it substantially alters the original intention of the Motion and, therefore, cannot stand.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, unless we are reading from different scripts the Motion that is before us reads like this:-

THAT, this House do grant leave to introduce a Bill for an Act of Parliament to amend Section 45 of the Constitution of Kenya to provide for gender parity, regional balance and inclusion of person other than Members of Parliament in the Parliamentary Service Commission and for matters incidental thereto and connected therewith.

That is the version that is on the Order Paper today. The Mover of the amendment has asked us to delete something that does not exist in the current Motion, as it is today. I think we should just take it back for redrafting.

Hon. Members and the Mover, I order that we send this Motion back for redrafting, so that you can include in it what you require.

Next Order!

**The Minister for Information and Communications** (Mr. Poghismo): On a point of order, Madam Temporary Deputy Speaker. The Chair has stunned me with its ruling that in the middle of a debate we suspend a Motion.

**The Temporary Deputy Speaker** (Prof. Kamar): Sorry! Sorry! Thank you for the point of order. The correct procedure will be to proceed and allow hon. Members to either accept or reject the Motion. The Mover has to decide, if it is rejected, what to do with it.

**The Assistant Minister for East African Community** (Mr. Munya): Thank you, Madam Temporary Deputy Speaker for giving me the opportunity to contribute to this Motion. I want to agree with my colleague who contributed earlier that this Motion is very dangerous. The constitutional position of Parliament is that it is supreme. Therefore, the PSC occupies a very important position in relation to powers of Parliament, and the role that Parliament fulfils in our constitutional order. So, when you purport to amend the Constitution to include non-Parliamentarians in the PSC, you undermine the supremacy of Parliament. Therefore, you are watering down the role of the Legislative Assembly.

Madam Temporary Deputy Speaker, if you look at the history of why the Parliamentary Service Commission (PSC) was created, you will find that it is because we wanted to keep away the Executive from attempting to control Parliament because Parliament used to be an appendage of the Executive before it asserted itself and created the PSC. So, this Motion is again taking us backwards and trying to creep back the Executive because, obviously, what will happen if we allow this amendment is that we are likely to have civil servants being seconded to serve in the PSC. The Motion does not even tell us how the people who will serve in the PSC will be picked. So, we are likely to have appendages of the Executive creeping back to Parliament and it is very dangerous to do that.

**Ms. A. Abdalla:** On a point of order, Madam Temporary Deputy Speaker. Is it in order for the hon. Member on the Floor who purports to be a lawyer to mislead this House that he expects me to give the details of how and who will be appointed to this PSC in a Motion of the House?

**The Assistant Minister for East African Community** (Mr. Munya): Madam Temporary Deputy Speaker, to correct my colleague who I have a high regard for, I do not purport to be a

lawyer. I am, indeed, a lawyer who is trained and qualified.

The issues I am raising are very fundamental. Even if you look at the Motion, it is even vague. It is vague in the way it is drafted because she is talking about gender parity and regional balance. She then says: "Matters incidental thereto and connected therewith". What are these matters? Once she has provided for gender parity, regional balance and inclusion of non-members of Parliament to serve in the PSC, what are these other matters that she is calling "incidental thereto and connected therewith"? What are they? Why could she not put them in the Motion so that we can clearly know what she intends to do with the Motion once we have passed it? So, what exactly are these other matters? Is she going to add the remuneration for these other members who will be sitting independent of the allowances that Members of the PSC get? Are these people who are going to be serving in the PSC employed permanently on a salary or allowances? Are these the incidentals that she is talking about? So, this Motion is vague and dangerous. It is going to water down the powers and standing of Parliament in our constitutional order and, therefore, I very strongly oppose it.

Madam Temporary Deputy Speaker, secondly, on the issues of gender parity and regional balance, even though they are not provided in the Constitution, they can be achieved without amending the Constitution. It is a question of consulting with the party leaders when we are nominating Members to the PSC so that we make sure that women are included and regional balance is observed. We do not have to have a substantive amendment to the Constitution to provide for that because the Constitution is silent about that. It is not against it. There is no provision in the Constitution against gender balance. So, it is an administrative issue that can be handled without going through the process of amending the Constitution.

Madam Temporary Deputy Speaker, the other very important issue is that we have a lot of pending issues with the Constitution that we have not dealt with over the years because we have been waiting for the review of the Constitution, so that we can be able to provide for all those that we have been wanting to provide. We have been generally avoiding piecemeal amendments to the Constitution to provide for small matters here and there, by waiting for a review. I know already there are those that are pending in the House that will provide for the major review where we will look into even these matters that the hon. Member intends to bring with this amendment. So, we do not need piecemeal amendments of the Constitution at this stage. Let us wait for the major review when we will look at all the matters that need to be looked into.

With those few remarks, I oppose.

**Mr. Kioni:** Thank you, Madam Temporary Deputy Speaker, Sir, for giving me this opportunity. I stand to oppose this Motion for very few and straightforward issues. One, starting almost where Mr. Munya has stopped, we have pending Bills before this House that aim to amend the Constitution. Piecemeal amendments to the Constitution will not help us in this country and it is important that we all sober up, wait and be ready for a proper review of our Constitution.

Madam Temporary Deputy Speaker, Sir, secondly, the Mover of this Motion seeks for gender parity and regional balance and these are issues that continually creep into our legislative agenda which I believe as the Member of Parliament for Ndaragwa, we need to be very careful about because by and large, we see this issue of regional balancing ending up discriminating some other areas. We should rather be talking now about population balance because we are pushing this regional balance beyond the limit and it is also becoming discriminative. We are actually marginalising other people through this phrase that is now being misused, of regional balance.

*(Applause)*

Madam Temporary Deputy Speaker, we are also talking about gender parity. This is

something that can easily be provided for under the Standing Orders of this House. Standing Orders are now under review and if we really need to bring in the aspect of gender parity we can do so. I sit on that committee and I can say that it has actually been catered for. So, we do not need to amend the Constitution to talk about it. This is something that is being adequately catered for in other areas and I believe it is fairly administrative. We do not need to amend our Constitution to bring that into place.

**Ms. A. Abdalla:** On a point of order, Madam Temporary Deputy Speaker. I have consulted with some of my colleagues and I am of the view that this debate be suspended to take into consideration the fears of the Members opposing this Motion.

*(Applause)*

**The Temporary Deputy Speaker** (Prof. Kamar): Ms. Abdalla, at the stage which we have reached, we cannot actually suspend it. I think the heat we had initially was that we were reading two different Motions and the introduction of an amendment that came from an older script. That is what we have just discovered. There was a script that had words to be deleted. I think currently, let us allow the debate and if it carries the day, fine, and if it does not, then the Mover will just note the concerns and then re-introduce it. At this stage, we cannot withdraw it.

Proceed, Mr. Kioni!

**Dr. Khalwale:** On a point of order, Madam Temporary Deputy Speaker. The issue raised by the Mover of this Motion requires a considerable ruling from you because one, she is the owner of the Motion. Without having initiated the Motion, we would not have had the opportunity to start debating it. Secondly, if she so chooses to have her Motion suspended, then it is my view that the Chair allows the House to vote on that issue whether they are allowing her to suspend her Motion or not and if it is so, then she can go and re-introduce it. This is because if you do not allow her and we reject the Motion the way we are going to reject it, it means that it is not going to have a chance anyway since it will have disappeared for the next six months. You better listen to her because this is a Motion we are obviously going to defeat.

**The Assistant Minister for Tourism** (Ms. Mbarire): On a point of order, Madam Temporary Deputy Speaker. I rise to support Dr. Khalwale. This is a very critical Motion not just for women but for all Members of Parliament. We do not want to lose this important Motion because of just a few concerns that the Mover would like to take care of before she brings it back. If we lose this Motion today, the Mover will have to wait for another six months before she re-introduces it. We really want this Motion to pass but we want to take care of the concerns that have been raised by hon. Members.

Please, consider her request favourably.

**Mr. Baiya:** On a point of order, Madam Temporary Deputy Speaker. Is it not the case then that the Mover of this Motion is actually applying to withdraw it but calling it suspension? If she wants to withdraw it, then that is a different matter and she should really have a right to do that.

**Mr. Wamalwa:** On a point of order, Madam Temporary Deputy Speaker. My point of order is under Standing Order No.50. I agree with hon. Member that the Mover is actually seeking to withdraw the Motion. Under Standing Order No.50, the Motion is in possession of the House and she can be allowed to withdraw it with the leave of the House.

Madam Temporary Deputy Speaker, she should seek the leave of the House for the Motion to be withdrawn after being put to the vote.

**The Temporary Deputy Speaker** (Prof. Kamar): She does not want it to be withdrawn, but to be postponed according to Standing Order No.21. If the Mover wishes to use Standing Order No.21 which reads and I agree:-

"(1) A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move "That the debate be now adjourned", or, in Committee of the Whole House "That, the Chairman do report progress".

So that we resume the debate itself. Sub-section 2 says:-

"(2) The debate on any such Motion shall be confined to the matter of the Motion."

"(3) If Mr. Speaker shall be of the opinion that any such dilatory Motion is an abuse of the proceedings of the House, he may forthwith put the question thereon or he may decline to propose it."

I think what hon. Members are asking for is whether we can allow the postponement of this debate, rather than adjourn it and come back to debate it again.

**The Assistant Minister for Tourism** (Ms. Mbarire): On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Prof. Kamar): Yes, can we now go back to hon. Mbarire. You should keep in mind what Standing Order No.21 says.

**The Assistant Minister for Tourism** (Ms. Mbarire): Madam Temporary Deputy Speaker, I just want your guidance. Will that postponement mean we can be able to take care of the concerns raised so that---

**An hon. Member:** No!

**The Assistant Minister for Tourism** (Ms. Mbarire): Or does the Motion remain as it is?

**The Temporary Deputy Speaker** (Prof. Kamar): Indeed, that is the problem I have on Standing Order No.21, because the substance of the Motion may not change.

**Dr. Eseli:** On a point of order, Madam Temporary Deputy Speaker. If we were to do it under Standing Order No.21, then we would not have solved the problem because, then, we will just adjourn the debate and it comes back as it is. But if she does it under Standing Order No.50, where she withdraws it after leave of the House, then she can usually go and make the corrections that we have been asking her to do! My opinion would be that she uses Standing Order No.50.

Thank you, Madam Temporary Deputy Speaker.

*(Applause)*

**The Temporary Deputy Speaker** (Prof. Kamar): I think we are now in agreement. So, the debate continues unless---

**An hon. Member:** She wishes to withdraw!

**The Temporary Deputy Speaker** (Prof. Kamar): Yes, she has to move the motion of withdrawal and not postponement!

**An hon. Member:** All right.

**Ms. A. Abdalla:** Madam Temporary Deputy Speaker, judging by the mood of the House, I seek leave to withdraw the Motion to take care of the fears of hon. Members.

*(Applause)*

**The Minister for Information and Communications** (Mr. Poghio): On a point of order, Madam Temporary Deputy Speaker. That should be done only if it is correct to do so. I think if you can consult, you can make sure that it is correct to do so.

*(The Chair consulted the*

*Clerk-at-the-Table*)

**The Temporary Deputy Speaker** (Prof. Kamar): Order, hon. Members! Standing Order No.50 states:-

"After the question has been proposed on a Motion, the Motion shall be deemed to be in the possession of the House, and cannot be withdrawn without the leave of the House."

Since the hon. Member has sought leave of the House to withdraw the Motion, I will now put the question.

*(Question, that the Motion be  
withdrawn under Standing Order  
No.50, put and agreed to)*

*(The Motion was, accordingly, withdrawn)*

*(Applause)*

Next Order!

AMENDMENT OF CHIEF'S ACT  
TO CREATE OFFICES OF  
VILLAGE ELDERS/HEADMEN

**Mr. Wamalwa:** Madam Temporary Deputy Speaker, I beg to move the following Motion:- THAT, appreciating the critical role played by village elders/headmen as the link between the Government and the people of Kenya in many villages across the country; aware that in spite of the crucial part played by these leaders in the Provincial Administration, there is no formal, legal or remunerative recognition given to them, this House do grant leave to introduce a Bill for an Act of Parliament to amend the Chiefs' Act to create offices of village elders/headmen and to provide for requirements for appointment, remuneration and for related matters.

Madam Temporary Deputy Speaker, in this country, we do have the Provincial Administration, which is a very important instrument through which the Government governs this country. From the Head of State, we have the eight Provincial Commissioners in charge of the eight provinces, 149 District Commissioners in charge of 149 districts, 561 District Officers in charge of 561 divisions, 2,000 chiefs in charge of 2,000 locations and 6,000 sub-chiefs in charge of 6,000 sub-locations. Below the assistant chiefs in many villages across this country, we have a category of leaders, who are mostly elders, who assist the chiefs in carrying out their duties across the country.

Madam Temporary Deputy Speaker, the Chiefs' Act allows the chiefs, under Section 7, to employ persons to assist them in carrying out their duties under the Act. However, there is no provision for remuneration of persons employed by chiefs to assist them in the execution of their duties. You will find that under Section 12 of the Chief's Act, the Minister may authorise the chiefs to hire people to work or render services in connection with emergencies. Whenever emergencies arise in any part of Kenya, the Minister, through the chiefs, is allowed to hire people. Those people are employed to do work and, under that Act, such persons employed by the chiefs are actually paid.

Madam Temporary Deputy Speaker, that is because under Section 12, the Act provides that such services rendered by persons employed by the chiefs will be remunerated from public funds. Section 12 is very clear that anybody who is employed for such services will be remunerated.

Under Section 13 of the Chiefs Act, the Minister may also authorise the chief to hire people and the chiefs have been employing people to actually carry out services in connection with conservation of natural resources whether it is tree planting and other duties touching on natural resources. Under Section 13, the chiefs are empowered to employ people. Such people and such services rendered under Section 13, are remunerated as provided by Section 14 of the Chiefs' Act. When you go further, under Section 16 of the Chiefs' Act, you will find that any persons engaged by the chiefs and any persons who render services whether under Section 12 or 13, whether it is in case of emergencies or conservation or any duties given to them by the chiefs, such persons are actually deemed to be workmen employed by the Government. They are entitled to compensation under the Workmen Compensation Act. Yet, the people who are employed under Section 7 by the chiefs are normally elders who assist them. They carry out various duties and they play a very crucial role as the final link between the Government and the people of Kenya in every village in Kenya.

Madam Temporary Deputy Speaker, these elders are known by different names. But their roles are very important in advising the chiefs. They play *quasi-judicial* roles in some villages. Indeed, you will find that where there are land disputes, these elders sit with the chiefs. They resolve disputes between clans and families at the village level sometimes even without the chiefs. You will find these elders sitting in land dispute tribunal adjudicating over land matters and, therefore, play *quasi-judicial* roles, very important roles. They assist the chiefs across the villages. You find that these elders also play a very important role when it comes to births and deaths in every village. When there is a death in village, before the word gets to the chief, you find these village elders are the first people to get the information. When there is birth or death in a village and in a way, they render services in registration of births and deaths in this country and play a very important role.

Equally, Madam Temporary Deputy Speaker, these elders also play a very important role in registration of persons. In issuance of identity cards, you will find that in most villages, these elders play a very important role in recommending and vetting before any child who is born after reporting their birth. Before these children are issued with identity cards, these village elders will actually do the vetting. They work with the chiefs and the District Commissioner's Offices to ensure that youths are issued with identity cards at the Registrar of Persons offices. They play a very important role even in the issuance of passports. Equally, they are also an important source of intelligence for the State in every village. They monitor all criminal activities happening in the villages. They monitor the strange goings on in every village where there are foreigners visiting or people of questionable characters, Therefore, they are able to assist the police and the chief in monitoring criminal activities in the villages. They provide an important source of intelligence. They also play a very important part in peace keeping especially in view of the recent clashes. You will find that in villages, these elders are very much respected. They are able to advise and talk to the young people and bring about peace making and social integration at the village level.

Madam Temporary Deputy Speaker, Sir, these elders also play a very important role in mobilisation. When the Head of State or Minister visit any part of the Kenya, these elders play a very important role in mobilisation and sensitization of the community. They also play an important role in dissemination of information whether it is a public policy; whether they are health matters touching on HIV/AIDS. They play these very important roles. Yet, in spite of the critical role that these village elders play, we do not recognise them. In the villages, they are the ears and eyes of the Government. That chief at the location will not be able to function without them. That

Assistant Chief in the sub-location relies on these elders. But do we recognise them in our laws? No. Are they rewarded for their efforts because they work for this Government? They are not rewarded. The Government has not allocated even some money to cater for their allowances. We are saying that we must, as a matter of urgency, as a nation start recognising all Kenyans of all walks of life regardless of their station particularly those who are down in the village who form the foundation of our nation.

Many times, as a nation, we have not been able to recognise our true heroes. I was privileged recently to visit Washington DC. As I arrived at Reagan International Airport, there was a big billboard at the Airport and it says: "Farmers are the true heroes of America". In this country, there are those farmers in the villages. In a year like this where they have had a lot of problems; very high costs of inputs; they are still struggling to plant. They are still struggling to feed this nation. They are making great efforts. But as a nation, we have not truly recognised their efforts. We look for heroes in terms of those statesmen who have made or had bigger achievements. But the ordinary things done by ordinary Kenyans in extra ordinarily good way must be recognised because these are our true heroes. Today, we heard of the Early Childhood Education (ECD) teachers. These are the first people who come in contact with our children. They mould them and give to this nation the building blocks with which we build this nation. Yet, up to now, our Government has not recognised the ECD teachers. They are not paid. We are being told that they are part of the Vision 2030. Probably from 2010, they might be integrated into the system. Yet, at that village level, they play a very important role in moulding our children. But they are not remunerated by this Government. They are not yet recognised by the Teachers Service Commission (TSC). When you talk of 2010 and 2030 before we recognise these ECD teachers; before we recognise the village elders who are playing a very important role, we are not really rewarding our true heroes.

We are saying that it is possible that we can recognise our true heroes as those ordinary people who do extra ordinary things for this Government. I would urge that all Members recognise them because I believe many Members of Parliament from every corner of Kenya are aware of the important role played by this very important leaders. You will find many of them walking bare foot in the villages. You will find the chief in his immaculate uniform at the office but these elders will do all the work for him. Recently, there has been restructuring of the Civil Service. We have had training of assistant chiefs, chiefs and District Officers (DOs). They have been here at Embakasi. They have reviewed their terms and they have been provided with motorised transport. They have been provided with better uniforms. But those that are actually the soul of the foot of this system of Government, out there in the village have been forgotten totally. We are asking today, may we remember these elders. May we recognise the important role they play and may we reward them. We know that the Government has been shy about this because of, perhaps, what they will be talking about; the financial implications. But they are not asking for much. All the MPs who have been out in the village will know that these elders have no income. In fact, they rely on the leaders to give them something. Every weekend when we go home, when we do not reward these leaders, we find that they turn to corrupt means. We find them in the villages adjudicating over these cases, doing what the chiefs should be doing and they are not remunerated. You find them asking for a goat or cow. As one way of eliminating corruption completely, we must start from the grassroots. Here, we are talking about leadership from the grassroots. Let us start by recognising those leaders and giving them a small allowance. It does not have to be a salary to the scale of the assistant chiefs. But we can give them an allowance and a recognition that will boost their morale. It will also reform their ways and even make them better leaders, so that we are able to curb corruption right from the village.

Madam Temporary Deputy Speaker, I will be asking that we do support our village elders.

You may call them *likhurus* or *wakasa* in Western Province. They are called *athuri-a-chibu* in Central. They are the *kayas* in Coast Province and *jaduongs* in Nyanza Province. But everywhere you go, you will find those leaders who assist. They are actually the foundation of the Provincial Administration system, cascading all the way to the Head of State, but are totally forgotten. We shall be asking that, that Bill will be actually amending, particularly, Section 7 of the Chiefs Act so as to give formal recognition. You cannot employ without rewarding anyone for their effort. Therefore, the chief cannot be empowered by an Act of Parliament to employ and the same Act of Parliament does not say how the people employed by the chiefs under Section 7, shall be paid. Under Sections 12 and 13, the Minister has allowed the chiefs to employ. But the same Act has provided for remuneration for services rendered. Why are the services rendered under Section 7 not provided for? It is necessary.

We are urging Members of Parliament to amend that Act. We shall be bringing this Bill. Let us support our leaders at the grassroots.

Madam Temporary Deputy Speaker, with those few remarks, I beg to move and request the Member for Kinangop to second.

**Mr. Ngugi:** Thank you, Madam Temporary Deputy Speaker. I rise to second this very important Motion. It is a Motion that addresses matters of security in this country, the Judiciary and the poor in our society that do all the work.

Madam Temporary Deputy Speaker, without the village elders, there is a big disconnect between the Government and the general population. If you look at the population today - about 35 million Kenyans - and the one that was there in 1963 when we attained our Independence, it has grown so many times. The chiefs are not able to keep track of what the general citizens are doing. It is those elders that connect the Government and the general population and yet, because they are not recognized, rewarded and taken care of, they do not feel it is their duty to tell the Government what is happening in every location and village. That is why this Motion is so critical and important. It will recognise those people who connect the Government with the general population.

Madam Temporary Deputy Speaker, there is a lot of backlog of cases in our courts today. That is because every small dispute and disagreement ends up in court. If we were able to recognise those village elders, remunerate them and even give them some structure and terms of service, the backlog in our courts would reduce. So, we are asking hon. Members to pass this Motion so that we can put those members of our society, who play such an important role, into the mainstream of our Provincial Administration.

Those elders are the keepers of our valuable traditions. The society has broken down because we have abandoned our good traditions. We no longer respect our elders. Children do not respect their parents. Parents do not respect their grand parents. Generally, we do not respect our elders, especially those who are organized and help the system. We have a duty to recognize them. Being the keepers of our valuable traditions and being the people who settle disputes - be they marriage, land or whatever--- They are the ones who live with the people. If we do not recognize them, then we will be failing in addressing the problems that are affecting our society.

Madam Temporary Deputy Speaker, we are all seated here as Members of Parliament, earning what people out there call "fat" salaries, although I do not think so. But all we are asking is that we have a duty. If we require service from anybody, we pay for it. In this country, if we were to do an analysis, we pay colossal amounts of money to consultants; people who are educated and they provide their services as consultants and yet, we do not pay anything to those village elders who are the first-line consultants of the Government and society. That is why we want this Motion to address that inequity where the poor are treated as being there to be used and to provide services for free. But those of us who happen to be educated and are lucky to get into this Parliament--- We used the same elders even to propel us into this Parliament and yet, we do not recognize them.



Instead, we just say that their services are there for free. That is why it is so important to do unto others what we would like them to do unto us. If we want to be paid and we are paid - and we even want a pay rise - why can we not be human enough and recognize those elders who are the foundation of our cohesive society?

Madam Temporary Deputy Speaker, the Government tried community policing. I do not think there has been much success with community policing. That is because community policing was forced upon the people. It did not emanate from them. Whereas the policemen and chiefs are paid, nobody pays for the services of those who are supposed to do community policing. They cluster themselves into ten households and then report to the chief what is happening in that area.

We should have a structured way that emanates from the people themselves that will help this country to address the problems affecting the people and the Government, including the issue of security.

Madam Temporary Deputy Speaker, it is only human that we look into these elders' issues and inculcate them within the Government administrative machinery. As the Motion read, they are not recognised in law yet they have been there for ages. Why do we not legalise their existence? Why do we not legalise their services? Why do we not put them in the Government administrative structure? If we do that, then we look for a budget. When---

*(Mr. Munya interjected)*

Mr. Munya is saying that I look for the budget. I would like to draw the attention of hon. Members to the fact that I am not the Minister for Finance yet.

*(Laughter)*

Madam Temporary Deputy Speaker, I am saying that the Government uses a lot of money in paying other people even in fighting corruption. If you look at the Kenya Anti-Corruption Commission (KACC), how much money has been spent by this body? How much money is spent by the Kenya Human Rights Commission (KHRC) which is funded from taxpayers' money? How much money is spent by parastatals that have gone down with public money? Those bodies are not more important than the community village elders that help our people to bring harmony. They help our people to live together. They also help people keep their traditions.

If we had recognised these elders and paid them a salary, may be even the clashes that occurred after the 2007 General Elections would not have occurred. These elders would have felt that they have a duty and responsibility to advise both the politicians and the young people who were used by the politicians, not to engage in tribal hatred and violence.

Madam Temporary Deputy Speaker, these elders did not feel that it was their responsibility. Instead, they felt that it was their responsibility to act to the whims of the politicians or whoever else had paid them. This is why we should address them by bringing a Bill into Parliament that corrects those mistakes so that going forward to the future, we will have a very harmonised country. We will have a country that recognises its elders and other citizenry who do good work for this country.

With those few remarks, I second the Motion.

*(Question proposed)*

**The Assistant Minister for Roads** (Dr. Machage): Naibu Spika wa Muda, shukran kwa kunipa wasaa huu kuunga Hoja hii mkono. Ingawa nimechelewa, ninafikiria ni Hoja ya maana na

lazima izingatiwe kusudi tuwe na msingi kamili wa kuiongoza nchi hii.

Wazee wa nyumba kumi kumi huko vijijini wana kazi ya kuwasaidia machifu ama naibu wa machifu kwa daraja hilo. Kama vile wanavyoitwa, kazi zao zimepanuka na wakati huu sio nyumba kumi kumi tena. Wanaangaza kazi zao kwa nyumba zaidi ya 100 hata 1,000 kwa wakati mwingine, bila malipo.

Naibu Spika wa Muda, nafikiria ni kunyanyaswa kwa hali ya juu kwa kutowalipa marupurupu yao. Wengi wao wamejitolea na wanaheshimu sheria. Lakini kitengo cha saba cha sheria kinachoangaza kazi za chifu, lazima tukigeuze. Hatuna budi, kama Bunge hili linalounda sheria, kukigeuza hiki kitengo kusudi hao wazee wapate malipo yao. Ninaamini kwamba wakishapata marupurupu yao, watafanya kazi zao ambazo ni za ziada vizuri zaidi.

Wakati mwingi mambo ya usalama hupoteza lengo lake wakati habari muhimu hazikusanywi mashinani. Ni kama vile kujenga nyumba bila msingi. Hawa wazee, wakiwa wanaume na wanawake ndio msingi wa usalama na habari za ziada ambazo zahitajika kabisa katika kuangaza hasa uongozi wa utawala mikoani. Hao wana uwezo wa kujua ni nani amefika kwa kijiji, nani mhalifu, nani mgeni, nani ameiba kitu fulani na amekileta kijijini, kama vile ng'ombe, ni nani hakulala kijijini na kadhalika. Haya ni muhimu, kwa sababu, wakati mwingine ni lazima habari kama hizi zikusanywe ili kuangaza hali ya usalama wa nchi.

Naibu Spika wa Muda, iwapo Serikali kuu inataka huduma za hawa watu lakini haitaki kuwapa mishahara yao, ninafikiri wao wenyewe wanavunja sheria ya kiutu na ubinadamu. Lazima hao pia waangaliwe kama watu ambao wamejitolea kuitumikia Serikali hii na wapewe kilicho chao. Ya Kaisari ipewe Kaisari.

Kuna mambo mengi ambayo hawa watu wana faida kwetu. Katika mambo ya elimu, hawa wazee hujuwa kwamba mzazi fulani anakebehi sheria ya kupeleka watoto shuleni, amekataa au hana uwezo. Hawa ndio wataleta ripoti kamili, kwamba mji huu hauna uwezo wa kupeleka mtoto shuleni au mji huu umekataa kata kata kwamba watoto wao wasome. Hizo habari zitatumika vizuri, hasa, kwa minajili ya kuhakikisha kwamba kila mwananchi wa Kenya amesoma na kuhitimu hadi kiwango cha darasa la nane kwa wakati huu na hapo baadaye labda kidato cha nne.

Bi. Naibu Spika wa Muda, kuhusu afya, wazee hawa watatoa ripoti mara moja iwapo kutazuka ugonjwa ambao utahitaji huduma za dharura. Wazee hawa wana uwezo wa kutoa ripoti kamili kuhusu idadi ya watu waliopata ugonjwa katika kijiji. Watatambua ni watu wangapi wamepuuza kwenda kutibiwa na ni watoto wangapi hawajawahi kupata chanjo. Hii ni habari muhimu sana kwa sababu inasaidia kufanya hesabu ya gharama hasa kwa huduma za chanjo.

Hata kuhusu kilimo, wazee hawa watajua ni nani amepuuza kwenda shambani msimu fulani. Wanawajua wale ambao kazi yao ni kuitisha tu msaada wa chakula cha bure ilhali wana mashamba yanayoweza kulimwa. Wazee hawa watajua ikiwa kuna njaa na chakula kimeletwa, ni familia gani zilizoathirika zaidi. Wao ndio watasema, "Bwana Chifu, wacha kumdhulumu fulani kwa sababu hakufanya makosa." Wazee hawa wana faida kubwa. Wao wanaweza kupindua mawazo ya wananchi hasa wakati wa kutangaza sera za nchi hii.

Wakati huu tuko katika harakati za kujaribu kuangaza mambo ya kugeuza Katiba hii ili iwe kamilifu katika kuhudumia wananchi wa Kenya. Wazee hawa watatumika kuwaongoza, kuwaambia na kuwafundisha wale wananchi vijijini faida na hasara za kubadilisha vitengo fulani katika Katiba. Wana huduma kuu ambayo inahitajika kabisa hasa katika uongozi wa nchi hii. Sisi tunawaita wazee wa nyumba kumi kumi. Ni muhimu wawe hivyo ili waangaze miji kumi ndipo waweze kujua kinachotendeka mashinani. Iwapo ni wachache katika tarafa fulani, basi waongezwe ili wawe wengi zaidi.

Sheria ya kutambua kwamba wazee hawa si vibaraka wa chifu iwekwe. Lazima pawe na sheria ya kusema kwamba kabla ya kuteuliwa kuwa mzee wa nyumba kumi kumi, sharti uwe mzee mwenye tabia na kisomo fulani. Sio kisomo cha darasani tu! Kwenda darasani haimanishi

umesoma! Huenda ukawa na shahada ya digri lakini iwe huna hekima. Kwa hivyo, kuna kisomo cha aina nyingi. Huyu ni mzee ameona mengi. Yeye huenda kwa mabaraza ya chifu kila wakati. Vile vile yeye huenda kwenye warsha nyingi. Kwa hivyo, amepanua mawazo yake. Ni mzee anayeelewa mambo. Hana kichaa na si mwizi. Ni mzee asiye na madharau. Ni mtu wa watu. Lazima kuwe na sheria ambayo itaangaza kwamba yule atakayeteuliwa kuchukua madaraka hayo ni mtu wa aina gani. Je, ni kiongozi ama ni mtu wa kunyanyasa binadamu?

Hoja hii iliyoletwa na mhe. Wamalwa imekuja wakati mzuri. Hatuna budi sisi Wabunge kuangaza mawazo yetu kwa jambo hili la dharura na kuliweka maanani. Ni jambo muhimu na kwa hivyo tulipitishie bila kupinga.

Asante, Bi. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Abdalla!

**Mrs. Noor:** Thank you, Madam Temporary Deputy Speaker. I am not hon. Abdalla. I am hon. Abdi Noor.

Thank you, for giving me this chance to contribute to this very important Motion which I feel is very good. I am here to support it. We must appreciate our history, culture and the gatekeeping role that our village elders play. We have had informal traditional governance systems and structures existing across our nation. Hon. Members respect those institutions and they use them when they are in crisis or when they want votes out there. These structures and systems have been very instrumental in supporting the Provincial Administration in performing its duties. These structures are saviour to some of us there in the villages. They solve all the conflicts we have in the villages. In some parts of this country, there are no police stations or courts. The village elders in these areas are the custodians of law. They are the ones who do mediation, peace-keeping and resolve issues that exist at that level.

Madam Temporary Deputy Speaker, these elders play critical roles in peace building, mediation, and conflict management in our society. I would like to share an example in northern Kenya. During the height of insecurity and the fall of Somalia Government, our clan elders took it upon themselves to mobilise people. They conducted door-to-door campaigns to see to it that we return sanity to the region. Those elders risked their lives. They sacrificed for this nation. At the end of the day, nobody rewarded them or appreciated what they did, that is, the critical role they played in mobilising and sensitizing the community on resolving critical issues that would otherwise have harmed this country.

The same elders sacrificed their lives to negotiate with war lords in Somalia. When people looted our property, that is, vehicles, livestock and many other things, the elders went to Somalia and negotiated with the Government there for the return of the same. We had the Provincial Administration in place. The chiefs were there! We had all the systems in place, but nobody dared go to Somalia to negotiate with the war lords. These elders sacrificed their lives and they went there to negotiate. It is on record that vehicles and livestock were returned after the successful negotiations by the elders.

When our elders sacrificed their lives and yet this country cannot reward them by even telling them, "Thank you, so much" it means that we do not appreciate ourselves. It also means that we do not appreciate the key role that our elders play let alone the structures and systems that determine our livelihoods. We are bound to be a nation that does not respect our traditions and customs.

Madam Temporary Deputy Speaker, some hon. Members are worried about the source of funds that will be used to finance the elders. We have wasted a lot of resources in corrupt deals. The money that we wasted in Anglo Leasing and Goldenberg scandals would have really given a lot of rewards to our elders. It would also have resolved many of the problems facing this nation today. Our elders are the best monitors that we have at the village level. Our elders are the ones

who look after the vulnerable of the society. They are the ones who assist the vulnerable ones in the society. They go from one door to another to see who is sick in order to help out. They are the best monitor. They render services that cannot be compared to what a Provincial Commissioner (PC) does in a province. A PC just sits in the office to get all the information from this critical elders who play the watchdog role. They monitor and help serving members of our communities. Our elders have really played a critical role in development matters, peace-building and in monitoring issues to ensure that things go in order.

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

**The Assistant Minister for Tourism** (Ms. Mbarire): Thank you, Madam Temporary Deputy Speaker, for giving me a chance to contribute to this important Motion. I want to begin by congratulating the Mover of this Motion for deeming it fit to bring this particular issue whose time has come and which I think should have been sorted out many years ago.

I think nobody can dispute the fact that the role of headmen, elders, or whatever other name they are called in various places, is very important in making sure that the Government is closer to the people. They also make sure that the Government gets information on a day to day basis, so that it gets the right information from the grassroots and understands what is happening at any one time.

These are men and women of integrity, who have a lot of support from the village. They are people who are always recognised by the people in the village, so that any time there is an issue, they are the first to get that information. If we talk about anything to do with development, they are always there; anything to do with funerals, they are always there; anytime a child is born in the village, they are always there. Therefore, they are very important, especially for making sure that the Government gets statistics of the number of people being buried or born everyday. We may not even need to pay for consulting services to do the national census, if we truly recognize the role of these people.

Madam Temporary Deputy Speaker, I want to focus on the need to build the capacity of these people, so that they do much more than they are already doing. These people deal with marriage and family disputes on property issues, especially land issues. Therefore, they are people who need to know more about the laws of Kenya. There is need to build their capacity as far as the laws of Kenya are concerned. In particular, I am thinking that they should be trained as paralegal officers, so that any time there is a matter that requires interpretation of the law, they are able to advise the people accordingly.

I also think that these are the same people who impart knowledge on the various Government policies that we come up with, and are able to sensitize Kenyans about what has come up and what the Government is doing. They can tell wananchi about Vision 2030. They are also able to talk to young people about the Youth Enterprise Development Fund (YDEF) and to the women groups about the Women Enterprise Development Fund (WEDF), where to go and where to get information from. Therefore, we need to think, not just about recognizing them in law or paying them, but also about how we can make them more useful to the Government in terms of information dissemination on what the Government is doing and what people need to know.

If you look at these same people, they are very useful for grassroots mobilization. If you look at some of the projects or programmes the Government comes up with, these people are the first to mobilize people around a particular project or issue. It is, therefore, important that we also build their capacity and give them proper mobilization skills, so that they are able to do so. Some of these people do not have mobile phones; so, they are not able to keep up to date with information as it comes. They are not able to reach the Assistant Chief immediately when there is an issue; sometimes they cannot even afford to buy air time. So, we need to give them proper mobilization skills and build their capacity to do just that.

We are now talking about our environment that is greatly endangered. These people will

ensure that tree planting events within the country take place, and tell us how many trees were planted in a particular village. They will also ensure that they are taken care of, so that they grow because it is one thing to plant a tree and another to ensure that it grows.

Madam Temporary Deputy Speaker, we have development projects where we need people to come on board to ensure that they take place. These are the people who will do it. We are in the era of HIV/AIDS. These are the same people who would help to impart knowledge on HIV/AIDS, ensure that the Government is aware of who is sick and where, whether they are receiving ARVs, as should be the case and the number of HIV/AIDS orphans that we are dealing with, so that we have up to date statistics. I am sure that if these people become useful, the Central Bureau of Statistics (CBS) will not need to pay so much to people to carry out a particular research. They will be getting timely information on what is going on.

I also want to say that as we think about empowering these people and recognizing within the mainstream Government, we need to start thinking of how to ensure that they also reflect a representation of the society in terms of gender. In my constituency, we have some women who are playing this role in some of the villages, but they are very few. We would like to ensure that, as we come up with these people and integrate them within the Government, there are women village elders, because an elder is determined by age and experience. We have women who are old enough, who are experienced and can offer the services that these people are giving.

With those few remarks, I beg to support.

**Mr. Kutuny:** Nashukuru sana, Bi Naibu Spika wa Muda. Nimesimama kuunga mkono Hoja hii ya kurekebisha Sheria ya Chifu ili kubuni ofisi ya kiranja wa mtaa, ama wazee wa mtaa na kuweko kwa sheria kabambe ya kuidhinisha malipo yao. Wao huchangia pakubwa ufanisi wa mashinani. Kule kwetu, wao hutambulika kama wazee wa mtaa, na wamechangia pakubwa sana utatuzi wa matatizo

yanayokithiri mashinani. Kukiwepo na kutoelewana baina ya jamii na pia kutofautina kwa familia, wao ndio huingilia kati kutatua shida hizo. Pia wanashirikiana bega kwa bega, mithili ya mchwa na nyuki, na wazee ambao wana taathiriba ya muda mrefu katika matatizo yanayokumba jamii.

Kwa sasa matatizo mengi yanawakumba wazee wa mtaa, na wanajiingiza katika kutafuta mlungula, au kiinua mgongo, kwa sababu hawajikimu kimaisha. Watu ambao wana pesa katika jamii, wanawatimia kutotatua matatizo jinsi wanavyotaka. Sheria hii ikiletwa Bungeni na ipitishwe, hali ya kiinua mgongo kule mashinani itafutiliwa mbali. Kila mwananchi atakuwa na nafasi nzuri ya kuwasilisha kesi na kusikizwa kwa njia mwafaka.

Pili, wazee wa mtaa ndio macho ya Serikali siku hizi. Kule kwetu kumekidhiri wizi wa mifugo na wao ndio wamekuwa wakitupasha sisi na Serikali habari jinsi wizi unavyoendelea. Hii ni kumaanisha kwamba ikiwa Serikali itawapa nguvu, matatizo yale yanaweza kutatuliwa kwa namna rahisi. Vile vile kumekuwako na ruwasa, ama ajenda, tofauti tofauti ya Serikali. Katika mipango ya Serikali imeonekana kwamba kuna mpangilio fulani wa taarifa za Serikali - kutoka juu hadi chini - kufika mashinani; lakini zikifika kwa naibu wa chifu zinakwama pale. Wazee wa mtaa hawana hari, ama motisha, ya kuwapasha wananchi habari kwa sababu wana upungufu, labda wa nauli ya kusafiria kutoka kituo kimoja hadi kingine.

Bi Naibu Spika wa Muda, watu hao wakipewa hela kidogo kama mshahara, kunaweza kuchangia pakubwa kwao kuwapasha wananchi taarifa tofauti tofauti za Serikali. Nikizungumzia malipo, ningependa kusema kwamba katika taifa la Kenya, kuna mabepari ambao Serikali inawalipa kitita cha zaidi ya Kshs2 milioni kwa mwezi. Tunasema tunataka Serikali ichukue hatua. Ndiyo maana tunaiunga mkono Hoja hii.

Kama Justice Ringera analipwa Kshs2 milioni kwa mwezi, tatizo liko wapi Serikali ikipungunguza hela hizo na kumpa mtu mwingine ambaye anashughulikia matatizo ya Wakenya wengi? Serikali inaweza kuwalipa watu hao Kshs1,000 kila wiki ili waweze kupata Kshs4,000 kwa

mwezi. Hatua kama hiyo itawawezesha Wakenya kupata huduma kwa njia moja ama nyingini kwa urahisi.

Mengi yamesemwa juu ya Hoja hii. Ninaamini kwamba hatutakuwa na budi yoyote ila kuipitisha halafu iwe sheria ili Wakenya waweze kupata huduma kwa njia mwafaka na rahisi.

Kwa hayo machache, ninaiunga mkono Hoja hii, ninapochukua kiguu na njia kwenda kutafuta maankuli ya mchana.

Asante sana.

**The Minister for Information and Communications** (Mr. Poghiso): Madam Temporary Deputy Speaker, I would like to thank you for giving me this opportunity to contribute to this Motion. I would like to thank my colleagues who have spoken ahead of me in support of this Motion. My friend, who spoke immediately before me, spoke in a language which made some of us to "float". I hope that it was formal Kiswahili that he was speaking.

Mr. Temporary Deputy Speaker, it is very important that I state very clearly that it is good to have this Motion brought to the House by the hon. Member. It is important that we all look at it very critically. It is very easy to support it, but I do have issues with it. We must separate formal leadership from informal leadership. If we formalise the informal leadership, then we lose the role it plays within the villages. It is also dangerous for us to provide for payments or remunerations for village elders or village leadership.

The current consultative approach, where they are actually used as consultants and play a role that is so balanced, far exceeds the idea of putting them on a payroll and causing them to depend on hand-outs or monies. That even causes them to be corrupt sometimes. It will reach a situation in the village where the state of "he who pays the piper calls the tune" will come about. The corrupt will corrupt our good elders and our informal leadership. That is my fear for going this particular way.

Madam Temporary Deputy Speaker, another fear I have is the budgetary implications of this Motion. It is huge. There are more villages in certain places but overall, this is going to exceed the number of chiefs, assistant chiefs, District Commissioners (DCs) and Provincial Commissioners (PCs) and, therefore, going to be a situation we will have to deal with in terms of raising the necessary budget for it.

I know that we have employed so many assistant chiefs and broken down the sub-locations to such small pieces, that we have actually created a situation where we continue to have more and more people at the bottom. It is going to complicate the way we budget. All our monies will, therefore, go for payment of salaries and development will, therefore, be compromised. That is my other fear.

Madam Temporary Deputy Speaker, I would also like to look at the possibility of us multi-tasking the people who are already there rather than trying to create new employment for elders. I can imagine for most of us, in areas where the elderships actually are very serious offices. The elders are already senior than the chiefs, assistant chiefs and DCs, because of their status. So, if we bring them to a level where they will be earning less money, the power that they have out of being natural opinion leaders in those particular areas will be watered down or diminished because they will belong to a scale. So, what used to be a senior person will become a lower person because of scale.

They will start reasoning that, you earn less than me, therefore, you are at the bottom of this chain. So, we risk compromising the existing natural leadership that even chiefs, assistant chiefs and DCs fear and respect when they go to the villages. I do not know at this point in time whether we should actually be going this way.

Madam Temporary Deputy Speaker, there is another category though, who are called the "Mkasas". This is a different category. If we are talking of village elders, this is a different

category. The "Mkasa" are a different kind of people. They are actually seconded to the chiefs. They are the foot soldiers. They are the ones who deal with cases. They know how to draw their allowances from the people they deal with. That is a different category of village leadership. The definition must be clear. Are we dealing with our traditional village elders? Are the elders who belong in another category the ones we are now trying to formalise or are we dealing with the ones who are already so commercialised that they can now be given a formal salary?

Where I come from, we also have people known as the KPR. They are actually Kenya Police Reservists. They do a wonderful job where they are, but they are not paid anything. They do a lot of security work. In fact, they keep most of the security in those border towns. The debate on whether to pay them or not to pay them has always been there. I wish they could be paid some little allowances, but then do you get to compromise their performance by these payments or not? I wish we could actually pay them and give them good uniforms. We could train them and allow them to perform their duties well, but the reason as to why they are voluntary is that they are reserves, so that they can actually do this out of their own will, and not to be compromised by money. I still believe that they should be paid or assisted through some other forms. So, those are my fears.

Madam Temporary Deputy Speaker, coming to the Motion itself, I would like to caution that, the fact that our chiefs and assistant chiefs have failed us in certain areas, does not necessarily mean that we need to multiply that problem. I think they are getting away without accounting for their time. What happens to the *baraza* gatherings that they used to have on a weekly basis? What happened to the visits they used to make to the villages? They no longer do it. So, what we are seeking to do now is trying to make up for them. We are saying: "Let us bring in more people to help deal with the inefficiency of our chiefs and assistant chiefs".

If we build the efficiency of our chiefs and assistant chiefs to where they actually do what they are supposed to do, we will reduce the need for a lot of these other people we are trying to employ. In my view, this Motion is trying to create employment through the backdoor. Of course, employment has its own laws. Employment will, of course, require assent when it comes to getting money from the Exchequer, *et cetera*. This is seeking to create employment for more than a million people in this particular one time at the particular level, depending on the number of villages that we create.

Madam Temporary Deputy Speaker, Sir, while I sympathise with this Motion brought by my honourable colleague, who is my former student, I also feel that I need to bring some of these things to the fore. Let us not, truly, compromise the traditional leadership that is in place. Let us not formalise what is informal. Let us not commercialise our leadership at the level that earns respect out of simply being born in the area and being respected. I think it is worth more than money.

With a really heavy heart, I beg to oppose the Motion.

**Mr. Chanzu:** Madam Temporary Deputy Speaker, this is a very important Motion. I think it is long overdue. Village elders exist. It is only that we have not recognised the role they play. The only way we can be able to recognise the role they play is to create structures in the Government that can recognise what they do.

I have just listened to the Minister when he was talking. He has contradicted himself so much! I did not even get what he was saying. You cannot deny what is there. I want to commend the Mover of this Motion for the research that he has carried out on this subject. According to the Mover, we have got about 6,000 sub-locations in this country. There are about 2,000 locations, 500 divisions and 149 districts. If you take a figure of about 6,000 sub-locations, and you give about 10 *ligutus* per sub-location, we are talking about 60,000 people. If you were to pay them just Kshs1,000 per month or Kshs2,000, we are talking about Kshs60 million or Kshs120 million. That is very little money compared to what the Minister earns per month. I think we debate to justify what we are talking about. But this is not a subject to be debated on. It is something that we should

have formalised a long time back. We have got low cadre civil servants in Job Groups "A", "B" and "C".

**The Minister for Information and Communications** (Mr. Poghio): On a point of order, Madam Temporary Deputy Speaker. Is the hon. Member in order to mislead the House with his calculations? He has said that 60,000 people being paid Kshs1,000 each amounts to Kshs60 million? He is misleading the nation!

**Mr. Chanzu:** Madam Temporary Deputy Speaker, I respect the Minister. He is a friend of mine. I was just giving it as an example. I do not deal with money. If the arithmetic is wrong, it will be corrected.

The engagement of the village elders should be formalised. What I would like to suggest, and I hope the Mover of the Motion will take it into account, I would like a situation where we can overhaul the Chiefs Act. The Inter-Parties Parliamentary Group (IPPG) in 1997 removed a lot of powers from the chiefs. I think it is high time that we overhaul the Chiefs Act. I have been telling my chiefs in Vihiga Constituency that we are looking forward to a day when chiefs will be popularly elected by wananchi! We do not want this business of just making recommendations single-handedly. A chief can even turn against you after you have recommended that he be employed.

Madam Temporary Deputy Speaker, we want total overhaul of the Chiefs Act. I hope Mr. Wamalwa is listening to this. This is a very important Motion but I think we need to overhaul the Chiefs Act completely, or even get rid of it. That way, somebody who is elected like me, Mr. Wamalwa or the Minister there, can take--- That is because we are elected by the majority of the people in the constituencies.

We are actually talking about devolution. We have seen how much the CDF has been able to do. Every time we resist change, but we have seen what CDF has been able to do. We have seen what LATF has been able to do. Why can we not go further and formalise the *ligutus'* employment? Even if it was Kshs600 million, I think it is very little money. For a country that has got an annual budget of about Kshs700 billion, what is Kshs600 million or Kshs60 million? I was just saying that elders should be paid Kshs1,000, but we can even make it Kshs10,000.

Considering that Members of Parliament take home about Kshs1 million per month--- On the salary, we have got Kshs851,000 for Back benchers like me. I think Kshs800,000 is closer to Kshs1 million than Kshs500,000. So, why can we not pay them even Kshs10,000? I would not mind.

Madam Temporary Deputy Speaker, hon. Members talked about increasing the CDF amount to even 10 per cent. We are talking about 10 per cent out of 100 per cent. If we can increase CDF, then Members of Parliament can take care of *Ligutus* through the CDF. I would not mind. The village elders should be engaged openly. They should not be engaged through the chiefs. Those posts should be advertised openly because it is a matter of leadership. I am sure that if we do it openly, everybody will be involved and we will get the right people.

Village elders play a very important role in information collection and gathering. We need to formalise their engagement, pay them well, hire them through the mainstream Government employment or through constituencies.

With those few remarks, I beg to support.

**Mr. Letimalo:** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Motion. While I agree with what the Minister said, I think the most important thing to note here is to understand the role played by the village elders in the management of public affairs in our society, and also to assess whether there is justification to remuneration. I would like to raise a few issues.

We know from experience that there are cases where a position in a sub-location or a



location in the same administrative area can fall vacant. Experience has also shown that the Government takes a long time to fill these vacancies. So, the village elders are called upon to carry out these administrative duties. They render services. At the end of it all, they do not get any rewards or recognition.

Madam Temporary Deputy Speaker, I also know that a decision was made by the Ministry of State for Provincial Administration and Internal Security that every chief be assigned, at least, five Administration Police (AP) officers to assist him, particularly in security matters. I also know that due to the shortage of APs, it was not possible to deploy, at least, five APs to every chief. Therefore, these duties have been taken by the village elders to assist the assistant chiefs and the chiefs. They even undertake security related issues, which can be very risky at times.

We know that there are parts in this country where communication is really a nightmare. It is difficult. There are no telephones or mobile phones. The routine development activities and co-ordination must be carried out. So, the only reliable way to pass information are the village elders. In the process of undertaking such responsibilities, the village elders sacrifice their time, resources and energy. It will be unfair if they carry out such kind of duties and at the end of it all, they are not remunerated.

Madam Temporary Deputy Speaker, I also know that the community policing was initiated because the Government could not deploy security personnel in every village. It became, therefore, important for the community to be involved in ensuring their security at the village level. The concept of community policing units has been successful at the village level because of the co-ordination of the village elders. Having worked with the Provincial Administration, I know that the community policing was not launched by the Provincial Commissioners or the District Commissioners. That is an indication that the Government really recognises the role played by the village elders. So, it is a matter of putting in place that structure and enforcing it.

As it has been said, truly, village elders are really instrumental in the enforcement of law and order and also in gathering information. I am saying this because in any public gathering, whether political or social gatherings like wedding ceremonies and funerals, where administrative officers may not be able to attend, certainly, a village elder will be in attendance. Therefore, all the proceedings of that gathering, political or social, will be communicated to the authorities concerned in the absence of the members of the Provincial Administration.

Those of us who come from the pastoral areas really appreciate the critical role that is played by the village elders. We know that the pastoral communities are conservative in their cultural practices. Even if we have free primary education, the majority of the pastoral communities have not embraced it. We should use the village elders to mobilize communities, so that they can send their children to school. They are the same village elders who can mobilize the communities to take the sick to the hospital instead of being attended to traditionally.

I do not see the problem in paying the village elders, because I want to compare them with members of the land tribunal panel, or the Land Control Board members who are drawn from the communities. They listen to land disputes and help the authorities. They are well versed in problems affecting land in given areas, and advise the land officers. These are people who are being paid sitting allowances when they attend meetings. So, it is important that village elders, who play a very important role, are remunerated.

With those few remarks, I support.

**The Minister for East African Community** (Mr. Kingi): Madam Temporary Deputy Speaker, thank you for giving me this opportunity to have a "bite" on this Motion. The importance of village elders certainly cannot be over-emphasized. All of us know that they are like doctors on call. They attend to issues in the morning, in the afternoon and even at night. They are more busy than the Assistant Chiefs and Chiefs, yet they are not officially recognised and paid. I would pose a

question. What are the problems that we have been having by not actually recognizing and paying our village elders? One of the problems we have been having is that they have had a tendency of trying to remunerate themselves by engaging in acts of corruption. The corrupt practices by the village elders have their roots in the fact that we are not paying them. Therefore, we see them hand over very unjust decisions to the extent that they actually affect the society. For us to remedy that, we should be able to accommodate, and recognise their role and officially provide for them.

However, the problem with this kind of Motion is the timing. You do recall that we went through a referendum. Before a draft Constitution was taken to the people for their verdict many views were harvested countrywide, and there was a resounding verdict on the Provincial Administration. Kenyans spoke, and did so very loudly. They actually said that they did not want the Provincial Administration. The Provincial Administration should, therefore, go. That decision was actually respected by the Constitution of Kenya Review Commission; even the draft that was not floated to the people had done away with the Provincial Administration.

We are now going back to completing the review process and the Government is committed to having a new constitution in the shortest time possible, it follows that, that particular document will certainly not have the structure of the Provincial Administration. Therefore, the role of the village elders will no longer be there. The problem I have with this Motion is the timing. I believe it can be carried on as a constitutional issue, so that as the debate on the new constitutional order takes place, then this issue can be taken on board. Otherwise we will pass an Act of Parliament that will last only for about six months or, at most, one year, because the Government has committed itself to complete the review process within a very short period. In as much as I would say that it is a wonderful piece of legislation that we want to come up with, it is coming up too late in the day. I would urge the Mover of this Motion to wait.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Prof. Kamar): Mr. Kingi, you will have six more minutes when debate on this Motion resumes.

Hon. Members, it is time to interrupt the business for the day. The House is, therefore, adjourned until Wednesday, 30th July, 2008 at 2.30 p.m.

The House rose at 12.30 p.m.