

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 19th April, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

RECRUITMENT OF ADDITIONAL PERSONNEL BY KISUMU MUNICIPALITY

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that the Kisumu Municipal Council is in the process of employing an additional 100 employees despite a recent illegal laying off of 98 employees and, if so, what is the justification?

(b) Could the Deputy Minister and Minister for Local Government urgently rationalize the employment situation at the Council?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, before I reply, let me apologise that the hon. Member has not gotten a copy of the answer, but I hope that he will follow as I respond.

Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the Municipal Council of Kisumu is in the process of employing 90 employees in order to fill the approved vacant posts in the staff establishment. All the necessary procedures have been followed, which include budgetary provision, adoption of Council resolutions, Ministerial approval and advertisement for the 90 posts. The 98 employees who were laid off were illegally recruited. They were employed against non-existent posts, with no budgetary allocation, when the Council had been dissolved after the expiry of its term.

(b) My Ministry has started staff rationalization in the Municipal Council of Kisumu and, indeed, in a few other councils. On 28th February, 2011, the Council was advised vide Circular No.C130805, that officers from the Ministry would visit the Council to assist in carrying out staff rationalization. The exercise is still ongoing.

Mr. Olago: Mr. Speaker, Sir, the dismissal of 98 members of staff and the current recruitment of another 100 in their place is causing a bit of misunderstanding amongst the residents of Kisumu. Could the Deputy Prime Minister and Minister for Local Government kindly explain, in a little bit more detail, under what circumstances the 98 members of staff, who were dismissed, were employed? He said that they were employed illegally, against non-existent posts, and with no budgetary allocation and when the Council had been dissolved. Could he explain this answer and give details?

Mr. Mudavadi: Mr. Speaker, Sir, I wish to state that, first of all, the number of people being employed is 90, and not 100. The positions that are being filled have now been properly laid out in terms of what kind of personality or skill we are looking for. In the case of non-skilled personnel, we have also worked with the Council to be very specific.

The 98 employees that I said were employed earlier on were laid off because at that time, the Council Clerk, Mr. Mbinda, waited until the Council was dissolved in the year 2002, just before the elections, and went on with irregular recruitment of employees, knowing very well that there was nobody to question him since all the Council members had relinquished their positions. He quickly hired the 98 staff members without Council resolutions and without showing the budgetary provisions. This was purely for reasons best known to him.

Mr. Mbinda was subsequently removed from Kisumu Municipal Council and suspended when this anomaly was discovered. So, those former employees were there purely on the basis of an illegal recruitment exercise. That is why we had to rationalize the exercise and make sure that this time round, the proper procedure is followed, and that the Council has proper budgetary provisions to recruit, and do so in a manner that is meaningful to the Council, as opposed to just general employment as was done by the former Clerk to Council.

Dr. Monda: Mr. Speaker, Sir, the practice of municipalities and county councils employing and sacking people arbitrarily is common in many parts of the country, including Kisii County, where I come from. What is the Ministry doing, in terms of policy, to ensure that employment in local authorities is done according to regulations, and that there is no arbitrary sacking and re-employment of fresh workers afterwards?

Mr. Mudavadi: Mr. Speaker, Sir, I wish to confirm that we have communicated to all the clerks. With regard to the Kisii Municipal Council that the Member has talked about, I want to re-assure the House that we have sent a special team to look at it because we have also been informed that there have been very many irregularities that relate to the council. Indeed, we have even removed the Clerk from the Kisii Municipal Council and a few other officers. We are also seeking support from the KACC in investigating some specific issues surrounding the council. In terms of general policy, we have made it very clear that no council should purport to employ people without having sought the necessary approval from the Ministry. That approval must be supported by the budgetary allocation to meet the salaries of those people and also to show that these people are going to be recruited on a competitive basis. There must be very clear definition of what designation you are really looking for, so that it is not just a general recruitment exercise as has been the case in the past.

Mr. Njuguna: Mr. Speaker, Sir, while appreciating the response by the Deputy Prime Minister and Minister for Local Government, it is notable that these are innocent Kenyans who applied for jobs and were given the same. These are employees who are supporting their families and providing education to their children. Could the Minister, on humanitarian grounds, reconsider that position? These workers will continue suffering unfairly.

Mr. Mudavadi: Mr. Speaker, Sir, as I said, this was an irregular and mischievous approach by the then clerk. He waited for the council to be dissolved and then he went on a rampage to employ people on his own volition. It is really unfortunate, but I would like

to state that a number of these employees, who had been irregularly recruited, have gone to court and that matter is the subject of a court process. We can only await the outcome. At this particular stage, the fact of the matter is that the council was continuing to incur irregular expenditure for as long as these employees were irregularly employed. That is untenable as well.

Mr. Kabogo: Mr. Speaker, Sir, I am not sure what the Ministry intends to do because it seems to be a trend that when there is change of guard in terms of councilors, the councils lay off long serving casual workers to employ new workers as in the case of Juja in Thika. What is the Minister going to do to make sure that innocent Kenyans do not lose their jobs so that their jobs are taken over by the councilors? What is the policy of the Ministry?

Mr. Mudavadi: Mr. Speaker, Sir, yes, I must acknowledge that there is a similar kind of scenario in Thika. One of the issues that we are insisting on is that really, we must have a staff rationalization programme. Just like we did for Kisumu, we will have to send a staff rationalization team to the Thika Municipal Council, so that we can evaluate the crisis that is there. I want to state once again that any clerk who knows that he is engaging in this exercise will be removed and disciplinary action will be taken against him. In the case of Thika Municipality, I have been informed that action is being taken by the Permanent Secretary regarding the clerk who was involved in some similar malpractice.

Mr. Pesa: Mr. Speaker, Sir, the question of flouting of rules and laws by clerks in our municipalities is a big problem for this nation. The Minister has just said that in the case of Kisumu, the clerk was suspended. Is he satisfied that the suspension of the clerk is enough to deter other clerks in this country who are actually causing the Government a lot of wastage of funds and agony in our municipalities?

Mr. Mudavadi: Mr. Speaker, Sir suspension is usually the first port of call in matters like this. As the evidence unravels even more, more stringent measures can be taken against any individual officer who will be seen to have deliberately flouted the rules. So, suspension is not necessarily the only measure that can be taken.

Mr. Olago: Mr. Speaker, Sir, I am considering the answer given to this Question, but the most important fact is that the persons who have now been laid off were innocent. A non-employed Kenyan receiving a letter of appointment signed by the Town Clerk will assume that it is genuine and in good faith. What is the Minister doing to ensure that those who are being laid off will get what they are entitled to and the recruitment exercise of new employees is going to be done properly without corruption?

Mr. Mudavadi: Mr. Speaker, Sir, if I start at the tail end, the positions that are vacant have been advertised. This is one point that I would like the House to note. Secondly, a committee has been set up to carefully look at the applicants in this context. The Ministry Human Resource Department will also be working very closely with the specific local authority to ensure that fairness and transparency are upheld during this recruitment exercise. So far, to the best of my knowledge, there is a record 5,000 applications for these jobs. People have shown interest in these positions. So, that is a process that is going to be evaluated by the committee. I want to state again that part of the issues raised here are now in court. But it would also be difficult for me to make a pronouncement and say that all the irregularly employed people must be compensated because in the first place, it was irregular. So, the details of this must be worked out

because we cannot just compound an irregularity in this context by continuing to again commit additional public funds for a wrong that was done.

MURDER OF MRS. YUNIS ANYANGO/DAUGHTER

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

(a) Under what circumstances were one Mrs. Yunis Anyango and her daughter killed in East Nyakach location on 4th April, 2011?

(b) Could the Minister provide a list of people who have been killed in similar circumstances in Nyakach, Ainamoi and Belgut from 2008 to date as well as an update on the investigations of the respective killings?

(c) What measures has the Government put in place to ensure that killings do not recur, particularly along the border of Nyanza and Rift Valley Provinces, and that the culprits are brought to book?

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

(a) On 4th April, 2011, at about 10.00 p.m., Yunis Anyango, aged 35 years and her daughter, Benta Atieno Odhiambo, aged 18 years, a Standard Eight pupil at Ndori Primary School were in their house at Yimbo East Location when they were attacked by a gang of three armed with pangas and other crude weapons. The attackers were suspected to be cattle rustlers. Yunis Anyango sustained several sharp cuts and died on the spot. Her daughter Benta Atieno Odhiambo sustained multiple panga cuts and is admitted at the Nyanza Provincial General Hospital where she is undergoing treatment. An inquest file No.7/2011 was opened at Pap Onditi Police Station and the matter is under investigation.

(b) A total of 13 persons have been killed in similar circumstances since 2008. However, there were no incidences of a similar nature reported in Ainamoi and Belgut since 2008. I wish to table a list of the victims, the circumstances under which they were killed and the status of the cases so far.

(Mr. Ojode laid the document on the Table)

(Ms. Karua consulted with Mr. Mwatela at the Front Bench)

Mr. Kiuna: On a point of order, Mr. Speaker, Sir. When did Ms. Karua become the Leader of Government Business?

Mr. Speaker: The Member for Molo, I rule that, that is vexatious because the Member for Gichugu, as I see, is merely consulting with the Assistant Minister for Education from the position where she is sitting. She has not purported to take over any role!

(Applause)

Proceed, Mr. Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, to ensure there is security and forestall such killings, the police have put the following measures in place. Beefing up security along the border, stepping up patrols by a combined regular police, Anti- Stock Theft Unit (ASTU) and Administration Police along the Nyanza/Rift Valley borders, holding of regular *barazas* by Provincial Administrators to encourage peaceful and cordial co-existence by communities living in the area and enhancing collection of intelligence, which has led to drastic reduction of such incidences since 2010.

Mr. Ochieng: Mr. Speaker, Sir, since 2008 my people have been killed. Almost every year, we lose lives at this border. I do not understand how the measures the Assistant Minister has talked about will prevent this kind of heinous act. Could he confirm that he is willing to put up a police post at this particular place with immediate effect, so that these kinds of killings are checked?

Mr. Ojode: Mr. Speaker, Sir, I am willing to put up a police post if requested, because I have already put up an Administration Police post at Onywongo Market to supplement the efforts which my police officers---

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. The Administration Police post that the Assistant Minister has said he put up at Onywongo Market is no longer there. Could he liaise with the District Commissioner of Nyakach to make sure that another Administration Police post is put up at that place where these deaths have been occurring?

Mr. Ojode: Mr. Speaker, Sir, if the ASTU camp is not at Onywongo, I will make sure that a camp is set up at that place. I want to assure the hon. Member that I will try to have this camp at Onywongo Market this week.

Mr. Speaker: Ask the last question, Member for Nyakach!

Mr. Ochieng: Mr. Speaker, Sir, I think I am satisfied. That is all I wanted on this matter.

KILLING OF ELEPHANTS BY POACHERS

Mr. C. Kilonzo: Mr. Speaker, Sir, I beg to ask the Minister for Forestry and Wildlife the following Question by Private Notice.

(a) How many elephants have been killed by poachers in the last eight years?

(b) Who were the exporters of the consignment of elephant tusks worth over Kshs380 million and equivalent to 120 elephants killed, which was impounded by the Thailand Customs Department?

(c) What action is the Government taking to address the issue of poaching?

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

(a) The number of elephants killed by poachers in Kenya from 2003 to date is 844, with the highest number being in 2009 when a total of 204 were killed. In 2010, 187 elephants were killed. This year alone we have lost 70 elephants.

(b) The Kenya Wildlife Service (KWS) is in receipt of an elephant ivory seizure report from Thailand through international media. The report alleges that on 31st March, 2011, Thailand Customs intercepted 247 elephant tusks and one ivory piece all weighing 2,033 kilogrammes. According to the export documents in

their possession, the alleged contraband was said to have been shipped via the sea and the shipping route was indicated as Kenya-Thailand. The KWS and the Lusaka Agreement Task Force, a regional inter-governmental cross-border wildlife enforcement agency, have already established contacts with the Thailand Customs, requesting for the export documents related to this seizure, in order to initiate investigations on this matter. We have not yet received all the required documents as at this stage and expect to receive them soon. Therefore, at this point my Ministry is not in a position to confirm or deny that the said shipment originated from Kenya and the identity of the suspect(s) exporters until investigations are completed. The investigation is being done jointly by various Government agencies, the Interpol and the Lusaka Agreement Task Force.

- (c) The Government is committed to dealing effectively with elephant poaching and illegal ivory trade in the affected areas across the country. Law enforcement efforts have been put in place in a bid to ensure the security of elephants and other wildlife in their dispersal areas, arrest poachers and prosecute them in courts of law.

The Government of Kenya, through the KWS is implementing a range of strategies geared at addressing poaching in general and especially poaching of endangered species. Some of the strategies currently being employed include the following:

- (i) The KWS has a fully fledged and equipped armed wing deployed across the country, especially in the known poaching hotspots to ensure wildlife security and contain poaching and illegal ivory trade. During the last eight years, law enforcement efforts by the KWS security teams have led to the arrest of a total of 496 elephant poachers and recovery of 10,552.76 kilogrammes of ivory. The team has over the same period been engaged in a total of 86 successful contacts with armed poachers. Sadly, a total of nine KWS rangers have been killed in the line of duty and 16 injured by armed poachers, while protecting Kenya's wildlife during the period.
- (ii) The armed wing of the service has established units that are mandated to conduct ground patrols, gather intelligence on wildlife crime, investigate wildlife crime incidents and arrest and prosecute suspects. The units are strategically deployed and work closely with other Government security agencies through sharing of intelligence information and joint anti-poaching operations.
- (iii) The Service has deployed patrol aircraft in most of the major parks and in certain areas outside the parks that are known for banditry and wildlife poaching. The aircraft provide aerial support to ground patrol teams, as well as collect information on wildlife distribution so as to facilitate effective and strategic deployment of personnel. Key emphasis is placed on endangered species, that is, elephants and rhinos.

Mr. C. Kilonzo: Mr. Speaker, Sir, nowhere in my Question have I asked the Assistant Minister whether the consignment originated from Kenya. What I want to know is the identity of the exporters. Since the Assistant Minister confirms that, indeed, they are holding some documents, could he tell us from the documents he is holding who the exporters are?

Mr. Nanok: Mr. Speaker, Sir, I have just said that we have instituted investigations and contacts with the Thailand Customs so that they can give us copies of

those documents. As soon as this investigation is ready, I will be more than willing to table the information.

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I will not wait for investigations to be completed. All I am asking the Assistant Minister to do is to tell us the identity of the exporters. He can carry on with the investigations because those are two separate things.

Mr. Nanok: Mr. Speaker, Sir, you will realize that this is information that we received through the media from Thailand. It did not originate from us. Only if we get the documents, then we can verify whether it originated from Kenya or elsewhere.

Mr. Kabogo: Mr. Speaker, Sir, I am not sure whether the Assistant Minister is aware that all he requires is the bill of lading. He says they are in touch with the Thai Government. All he needs to know is the vessel that carried the ivory from Kenya and the container number. So, those details that the Member for Yatta is looking for will be available in a simple document that he can get by email. So, he is trying as usual to seek time by saying that investigations are ongoing. Could he confirm or deny whether he has the bill of lading that indicates the vessel, the importer and country of origin?

Mr. Nanok: Mr. Speaker, Sir, I will not refuse to disclose information if I have it at hand. This information will be provided. If the hon. Member wants me to table it as soon as we get it, I will do so.

Mr. Bahari: Mr. Speaker, Sir, wildlife is very important to us. This Assistant Minister serves in that Ministry courtesy of that wildlife, but he is taking this matter very lightly. We have a mission that covers Thailand. Could he put the process in motion and ensure that they get these documents as soon as possible without getting us into the larger investigations?

Mr. Nanok: Mr. Speaker, Sir, we are already in the process of contacting the Thailand Customs who the media allege to have come across this shipment. So far, we have not got the documents. As soon as we get these documents, I believe we can be able to verify where the origin of this shipment.

I want to tell the House that it is not only the Kenya Wildlife Services that will be doing this, but we are liaising with the rest of the security agencies, including the Kenya Police according to the Lusaka Task Force Agreement. As you know, globally, Kenya has been in the lead to stop trade in ivory. However, there are certain areas where this trade is still ongoing.

Ms. Karua: Mr. Speaker, Sir, the Minister says 840 elephants have been slaughtered, so far. Could he tell the House what measures the Government is taking to stop poaching? Why has his Ministry not bothered to get information even after this Question was asked? He is now telling us he is still waiting for information. Why have they neglected to get vital information?

Mr. Nanok: Mr. Speaker, Sir, I think I have already indicated the measures we have put in place. I have said that in all the exit points, particularly---

Mr. Ochieng: On a point of order, Mr. Speaker, Sir. The Assistant Minister keeps on repeating himself. Hon. Members of this House want him to table the details of people who are exporting these tusks. If he is not able to do so, will I be in order to request that this Question be deferred so that he gets proper information, so that he can satisfy this House?

Mr. Nanok: Mr. Speaker, Sir, trade in elephant and rhino tusks is illegal. So, we cannot legalize something that is illegal. We have already instituted contacts with the Thai Customs---

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. We do not have to waste valuable time of this House. All we are asking the Assistant Minister is to tell us the identity of these people. He says in his written answer that, indeed, they are holding some documents. Whichever the documents are, he should tell us the identity of these people. Unless he is protecting people within the system like in the pyramid schemes.

Mr. Speaker: Mr. Assistant Minister, are you able to answer that Question and even the ones which were asked earlier, or you are unable to do so?

Mr. Nanok: Mr. Speaker, Sir, I am not protecting anyone. As soon as we get these documents, I will be more than willing to table them here in this House.

Mr. Speaker: Order, Mr. Assistant Minister! How long do you need to get those documents?

Mr. Nanok: Mr. Speaker, Sir, as I said, contact has already been established with the Thai Government. Within two weeks, we will report back on whether we will have received the documents or not.

Hon. Members: On a point of order, Mr. Speaker, Sir!

Mr. Speaker: Order, hon. Members. The Assistant Minister is categorical that within two weeks he will have the information. I, therefore, defer this Question to two weeks away from today for him to avail those documents.

(Question deferred)

DIVERSION OF WATER FROM NEW WOOD ESTATE
BY SHENGLI CONSTRUCTION COMPANY

Mr. Kabogo: Mr. Speaker, Sir, I beg to ask the Minister for Roads the following Question by Private Notice.

(a) Is the Minister aware that the ongoing Thika Road construction by Shengli Construction Company has affected the residents of New Wood Estate by diverting the estate water supply hence heightening the risk of water-borne diseases?

(b) What immediate measures is the Ministry taking to address the matter?

Mr. Speaker, Sir, I would seek the indulgence of the House. If you look at the Question it is asking about diverting the estate water. The Question that I intended to ask was about diverting drainage water to an estate from the new Thika Road construction.

You will realize that we ask Questions by Private Notice because of their urgency. I have spoken to the Assistant Minister, if you allow, so that he makes an undertaking to visit this place. If he does so, he will see that water is being drained into an estate. He can make an undertaking that corrective measures will be taken forthwith with the indulgence of the Chair.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, indeed, it is true that the Question as it appears on the Order Paper actually does not belong to the Ministry of Roads. As the hon. Member has indicated, it appears that what he had actually requested is not what is on the Order Paper. Subsequently, we have agreed that at an opportune time, we will be able to visit the area and make the necessary corrections in

terms of instructions to the contractor to ensure that the area is taken care of in terms of drainage. So, I, therefore, want to agree with the hon. Member that we shall rectify the matter outside this House.

Mr. Speaker: That may appear to be fair, Mr. Assistant Minister. However, since it is a Question by Private Notice and you concede that it is an urgent matter, could you indicate the time frame within which you will visit the area?

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, within a fortnight.

Mr. Speaker: Order, Mr. Assistant Minister! This is unhealthy water that is affecting people's health around that area of construction. So, you cannot leave them vulnerable to disease for two weeks. This is a Question by Private Notice. Could you do so, within the next 48 hours?

(Applause)

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, I will do as instructed, but within the fortnight I had indicated, would also cover the 48 hours. But I will do so.

Mr. Speaker: Order, Mr. Assistant Minister. You will visit this site within the next 48 hours and resolve the matter.

The Assistant Minister for Roads (Mr. Kinyanjui): Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Member for Juja, if you are not satisfied, raise the Question again and I will allow it.

Member for Wajir South.

ORAL ANSWERS TO QUESTIONS

Question No.740

NUMBER OF PROJECTS UNDERTAKEN BY ROADS MINISTRY IN WAJIR FROM 2008

Mr. Sirat asked the Minister for Roads:-

(a) what projects, aside from the Road Levy Maintenance Fund, the Ministry has undertaken in Wajir South from 2008 to date;

(b) why the Isiolo-Mandera Road which leads to Somalia has been classified as Class B instead of Class A and what plans the Government has for Roads B19 and C166 in the 2010/2011 financial year; and,

(c) what became of the project to tarmac the Garissa-Wajir-Mandera Road.

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

(a) Most of the projects undertaken in Wajir South have been funded through the Road Levy Maintenance Fund. Nevertheless, projects undertaken outside the Road Levy

Maintenance Fund include: designing of the Isiolo-Modogashe-Elwak-Mandera section of Road B9.

(b) The classification of roads in Kenya was done in the 1960s where this road was classified as B9. My Ministry has embarked on an exercise to review the classification of roads in Kenya.

The report is being finalized and will be tabled in the House within the next 30 days as per the ruling of the Speaker earlier this month. The deserving roads will be upgraded to new classification and my Ministry, through the Kenya National Highways Authority (KeNHA), has set aside a total of Kshs185 million and another Kshs38 million for maintenance works on B9 and C116, respectively. In addition, the Government is in the process of securing funds for the tarmacking of the Modogashe-Wajir-Elwak section of B9.

(c) The project to tarmac Modika-Nunu-Modogashe is on course. Currently, the Government has obtained funds from various development partners and the procurement of the works will be done in the course of this year - 2011.

Mr. Sirat: Mr. Speaker, Sir, I have heard the answer. It indicates that the Ministry has done nothing for Wajir South. It intends to do something in the next financial year. My question is: What has the Ministry done in Wajir South Constituency? I have not asked about the Isiolo-Modogashe or the Elwak-Mandera roads. What has the Ministry done for Wajir South in the last three financial years? I am not asking about what it is going to do.

Mr. Kinyanjui: Mr. Speaker, Sir, Part (a) of the Question reads: "What projects, aside from the Road Levy Maintenance Fund---" The Road Levy Maintenance Fund is also from the Government. It is administered by the Ministry. So, to claim that the Government has not done anything in the last three years is completely misleading. As I have indicated, other than the maintenance through the Road Levy Maintenance Fund, we have also undertaken the designing of those particular roads and I have the details.

Mr. Chanzu: Mr. Speaker, Sir, in Part (c) of the answer, the Assistant Minister has said that the work is due to start some time in this financial year. Could he give an indication of time?

Mr. Kinyanjui: Mr. Speaker, Sir, I am unable to give a definite date because the stage at which we are in the negotiations, we have already completed the design work. We have approached several development partners who include the Kuwaiti and Saudi funds, the Oil Producing and Exporting Countries (OPEC), the Arab Bank for Economic Development of Africa (BADEA), Abu Dhabi and Government of Kenya (GoK). We are very confident that within the next six months, we will be able to come up with a firm commitment to start the procurement. However, as it is right now, without a firm commitment on the procurements, I may not be able to give the exact date when the work will commence.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Member for Gichugu and Member for Rongai, you stood when the Assistant Minister was still on his feet. The person who is timely is the Member for Isiolo South.

Mr. Bahari: Mr. Speaker, Sir, if I heard the Assistant Minister right, he has allocated some money for Road B9 - that is Isiolo-Modogashe. Since it has been there for a long time and the Ministry is planning to upgrade it to bitumen standards, how many kilometers is it going to cover, when funds will be available?

Mr. Kinyanjui: Mr. Speaker, Sir, as I indicated, my Ministry, through KENHA, has set aside a total of Kshs185.5 million for B9 and a total of Kshs38.4 million for C116. The money set aside for B9 will cover the entire B9, which is the Isiolo-Modogashe section. The road is actually located in Isiolo and Garissa counties. The project starts in Isiolo with the junction at A2 and passes through Garbatulla and ends in Modogashe. It will also incorporate the Modogashe-Wajir-Elwak Road. That is still part of B9 and this section is located in the Isiolo, Wajir and Mandera counties. Still on B9, we have the section called Elwak-Mandera and the project is located within Mandera County and it is approximately 215 kilometres.

Mr. Kigen: Mr. Speaker, Sir, the Minister has confirmed in this House that, by the next financial year, the Garissa-Wajir-Mandera road will be tarmacked. He has also said that they are negotiating with various development partners. Could he confirm to the House what amount of money has already been acquired as at now to warrant him to confirm to us that, by the next financial year, that road will be tarmacked?

Mr. Kinyanjui: Mr. Speaker, Sir, I would be reluctant to talk about the money acquired. But, maybe, I can talk about the pledges in connection to those particular projects. The GoK has sourced funds for the construction of those road as follows:-

I had talked about the Kuwaiti Fund. We are talking about US\$20 million. With the Saudi Fund, we are talking about US\$25 million. With OPEC, we are talking about US\$12 million. With BADEA, we are talking about US\$10 million. With Abu Dhabi, we are talking about US\$10million and with GOK, we are talking about a total of US\$23 million.

Mr. Sirat: Mr. Speaker, Sir, the Assistant Minister is aware that I have approached his office on several occasions since January 2011, regarding a small portion of our road in Wajir South. Currently, there is drought. We thank the Government because it has given us water using trucks. A total of 10 vehicles are doing water trucking in my constituency but, unfortunately, the vehicles are not able to pass through that 10-kilometre road because of the sand soil. I have requested the Ministry to help us in maintaining that road, so that the vehicles can take water to the people about 110 kilometers away. I am wondering why the Ministry is not assisting Wajir South in maintaining that piece of 10 ten-kilometer road. I would like to table the proposal that I submitted to the Ministry on 20th January, 2011 with regard to repairing that section of the road.

Mr. Kinyanjui: Mr. Speaker, Sir, I want to acknowledge that, indeed, it is true that the hon. Member has visited our offices and actually forwarded the request. We are considering that request and we will be able to avail funds as soon as the same is availed to us by the Treasury. We also take note that the road in question is very useful in terms of relief supply and we will prioritize it as soon as the funds come. But, clearly, we have not declined. It is only that we do not have funds for emergency response.

Mr. Speaker: Next Question by the Member for Naivasha!

Question No.709

OWNERSHIP OF LAICO REGENCY HOTEL

Mr. Speaker: Is Mr. Mututho not here? Also keep institutional records. Mr. Clerk, are you aware that the Member for Naivasha is on any parliamentary duty elsewhere?

(Mr. Speaker consulted the Clerk-at-the-Table)

Mr. Speaker: Order, hon. Members! As a matter of fact, I was looking at the apparent significance of the Question, but there is no record available immediately that the hon. Member for Naivasha is away on official parliamentary duty. So, I am afraid the Question is dropped.

(Question dropped)

Mr. Speaker: Next Question by Mr. Washiali!

Question No.795

RECRUITMENT OF MANAGEMENT TRAINEES BY MSC

Mr. Washiali asked the Minister for Labour:-

(a) how many management trainees were recruited in the recent exercise by Mumias Sugar Company and how many of them are from the Mumias Sugar Zone;

(b) what criteria the Company used in identifying the trainees; and,

(c) what steps he will take to ensure that the company considers the locals for such opportunities.

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

(a) Mumias Sugar Company recruited 35 management trainees in various areas of specialization from diverse parts of the country. From those 35 management trainees, 11 or slightly over 30 per cent were recruited from the districts within the larger Mumias sugar catchment area; including Mumias, Butere, Vihiga, Kakamega, Bungoma and Busia. To be specific, four of the trainees were from the immediate surroundings of the company; mainly the Butere-Mumias area.

I wish to table the entire list of the management trainees recruited.

(Mr. Ojaamong laid the document on the Table)

(b) The company, in line with the internationally accepted human resource practice, advertised for these positions in the national Media during the month of August, 2010. I wish to table the adverts.

(Mr. Ojaamong laid the documents on the Table)

Mr. Speaker, Sir, these were very competitive and specialized positions and the company is obliged to tap the best possible skills in our labour market. The company has a policy of equal opportunity employment to all qualified candidates and that was clearly stated in the advertisement. Indeed, this is in line with the new Constitution and is in the spirit of national cohesion and integration. The advertisement elicited over 3,000 applicants out of whom 500 were shortlisted and taken through highly rigorous oral and written interviews, in addition to a series of psychometric and aptitude tests. Thirty five successful candidates were subsequently appointed as management trainees.

(c) The company has an employment policy that deliberately gives priority to locals who possess the requisite qualifications for all positions. May I table a copy of the relevant section of the policy?

(Mr. Ojaamong laid the document on the Table)

However, the positions of management trainees as advertised were highly competitive and specialized and had to be open to all Kenyans. I can confirm to this House that Mumias Sugar Company gives special consideration to the local community for non-specialized positions such as cleaning, maintenance and transport. These cadres are strictly reserved for local communities.

Mr. Washiali: Mr. Speaker, Sir, this Question came up last week and the list that the Assistant Minister gave me does not have the impression that he is now currently creating before the House. I would request that I have an opportunity to look at the list so that I can compare with the list that he had given me earlier because the list that he had given me earlier does not have any indication of how Mumias Sugar Company had recruited anybody from Mumias Constituency.

Mr. Speaker: Hon. Member for Mumias, I will allow you until after we dispose of Question No.787 and you ought to be ready at that time to interrogate this matter further. Obtain the list!

Mr. Washiali: Most obliged, Mr. Speaker, Sir.

Question No.756

ESTABLISHMENT OF GUM/RESIN
FACTORY IN SAMBURU EAST

Mr. Letimalo asked the Minister for Industrialization:-

(a) whether he could indicate to the House the potential of “*Gum Arabic*” and “*Gum Resins*” in northern Kenya; and,

(b) when the Government will establish a gum and resin factory at Sere Olipi in Samburu East, which has abundant *Acacia Commiphora* trees.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Speaker, Sir, we do have an answer but it is not quite satisfactory in the manner that we would wish it to be and I have consulted the Questioner to give us until Wednesday this coming week so that we could have a truly meaningful answer to this very important matter.

Mr. Speaker: Very well, I will then defer it to two weeks away. Is that as much as you wanted or do you want one week?

Is that fine by you, Mr. Letimalo?

Mr. Letimalo: Mr. Speaker, Sir, I have no objection.

Mr. Speaker: Very well, it is so directed.

(Question deferred)

Hon. Member for Bura!

Question No.577

AWARD OF TENDER TO SINK BOREHOLE IN TULA

Dr. Nuh asked the Minister for Water and Irrigation:-

(a) when the tender for the sinking of the borehole at Tula in Bangale Location was advertised;

(b) when and to whom the contract was awarded and whether she could provide a copy of the contract documents; and,

(c) to indicate the status of the borehole and whether she is aware that the contractor abandoned the works before completion around August 2010.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry advertised in the *Standard* newspaper on 18th February, 2009 for the drilling and equipping of 89 boreholes nationwide under the Drought Emergency Programme. Tula in Bangale Location was one among the 89 boreholes whose site was identified by Coast Water Service Board in conjunction with the Tana River District local leaders.

(b)The contract was awarded to the responsive bidder M/s Pure Water Resources Limited of P.O. Box 40541 Nairobi on 4th May, 2009 under Lot Number A/CWSD/1 for drilling two boreholes for Wararesa and Wadema.

(c) The terms of the contract for Tula borehole was to drill a borehole to a depth of 200 metres, sample collection water quality analysis, casing, gravel parking, development and aquiva test pumping. Immediately after the contract was awarded, the contractor had one month to mobilize equipment to site. During the month of August 2010, the contractor went to site Tula and managed to drill up to a depth of 118 metres. The borehole drilling could not go beyond that depth due to mud formation which requires specialized equipment and which is not available in the region. That, therefore, forced the contractor to re-mobilize and source for a mud drilling rig to complete the drilling exercise. This has taken a bit of time, but I have just told the hon. Member that I have once again asked our technical people to ensure that this is done with speed, especially due to the drought.

Dr. Nuh: Mr. Speaker, I was just trying to go through the documentation that the Minister has given me and the contract sheet that was signed; although on the front page

indicates Tula, at the annex, it seems to have been omitted. I think this is one thing that she can correct.

However, in the geo-survey report that was submitted to the contractor by the Ministry, some paragraphs indicate that some deposits are expected. Below the recent deposits, various strata of clay, silt, sand and other sedimentary beds are expected. I do not think that this was a shock to the contractor and besides, just about ten metres from where the borehole is being drilled now, there is a previous borehole which was drilled in 2005 that was operational in two years but collapsed in 2007. Why has it taken the contractor this long because I am currently tracking water to that village for the last four months?

Mrs. Ngilu: Mr. Speaker, Sir, you have heard the hon. Member say that there was a borehole that collapsed some few months ago. This is due to the formation of the soil as I have been told. That is what the contractor found on site when he went there. The reason why Tula was not in this tender is because it is a lot. They advertise them in lots. If you see that the advertisement was in Lot A/CWSD/1 for drilling two boreholes for Waroresa and Waidema. Tula fell within that lot. That is how it was done. It is also true that you can actually drill a borehole here and about three metres you do not get water in that radius. I have been told that it happens.

Mr. Mbadi: Mr. Speaker, Sir, the Minister in her answer mentioned that immediately after the contract was awarded it should have taken the contractor one month to mobilize equipment to site. But you realize that in the same answer, the contract was signed on 4th May, 2009, yet the contractor only managed to mobilize to site in August 2010, that is, more than one year after. Is she satisfied that this contract was awarded to a competent contractor who could take more than one year - unless there is a mistake - to mobilize equipment to site?

Mrs. Ngilu: Mr. Speaker, Sir, yes we had some challenges in the Ministry when we advertised the emergency drought programmes in the sense that after we had checked where we wanted these boreholes drilled and they went on site, many of them came and turned the work down and said that they had found out that what they quoted was much less than what was actually supposed to be done and we had to rework the tenders and the contracts again. So, we have some challenges in the Ministry.

Mr. Yakub: Mr. Speaker, Sir, the people of Tula have not been having water for the last four months. According to the reply from the Minister, the current borehole, which has a depth of 118 meters, was just five meters away from the one which got spoilt. Can the Minister request the contractor to move away from that neighbourhood which has a mud formation problem, and get a new borehole?

Mrs. Ngilu: Mr. Speaker, Sir, it would depend on the geological survey, land formation and where the water is. As I said, I have been told, and I think it is true, that you can get water in one point and about three meters away, you do not get water. I will get the technical people and engineers to see how fast, and the nearest place where, they can get water. It does not help anybody for them to get water a kilometer or two away from where it was helping the community.

Dr. Nuh: Mr. Speaker, Sir, the Minister can appreciate that this contract was awarded in 2009. It is now two years down the line, and to date, the people of Tula are still uncertain as to whether the borehole they were awarded will ever be commissioned. On the same note, the Minister promised that the borehole, which was being---

Mr. Speaker: Order, Member for Bura! Try and quickly come to the question! You do too much of a story before you ask your question!

Dr. Nuh: I stand guided, Mr. Speaker, Sir.

In December, the Minister promised that the borehole in Bangale would also be completed. However, it has also been abandoned midway. Could she tell this House, and Kenyans, when the contractor will be on site to complete this borehole?

Mrs. Ngilu: Mr. Speaker, Sir, as I said, I have already given firm directives that this borehole needs to be completed. It should be completed so that the community gets water, especially at a time when it is so dry. This is being done and it will be completed as soon as possible.

Mr. Speaker: Next Question by the Member for Vihiga!

Question No.787

DELAY IN COMPLETION OF LYANAGINGA
HEALTH CENTRE

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

(a) what the causes of delay in completion of the construction of Lyanaginga Health Centre in Vihiga Constituency under the Economic Stimulus Programme is; and,

(b) what she is doing to ensure that the project is completed promptly.

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Speaker, Sir, I beg to reply.

(a) The contractor at Lyanaginga Health Centre was terminated by the Economic Stimulus Programme Management (ESP) Committee on advice by the Ministry of Public Works on the grounds that the Committee resolved that the contractor was slow and lacked the capacity to speed up construction work.

(b) The Economic Stimulus Programme Management Committee meeting held on 15th April, 2011 resolved that the Ministry of Public Works takes over the contract, and the District Tender Committee awards it to another competent contractor to complete the project. The process for new tendering is ongoing.

Mr. Chanzu: Mr. Speaker, Sir, I would like to thank the Minister for the answer. The only thing is that this is one of the pathetic situations we find with these ESPs. I stand to be corrected; this project was awarded around April 2010 for a period of 24 weeks. This period was to end in around October. It is now more than double the period. I would like the Minister to tell this House what percentage of work had been done at the time of termination. What was the contract sum of the project before it was terminated?

Mrs. Mugo: Mr. Speaker, Sir, I would like to put it on record that the work of construction is supervised by the Ministry of Public Works, and the project manager is under this Ministry. The Member of Parliament for the area is a member of the ESP Committee. The Constituencies Development Fund (CDF) is involved in the management of this project. This also includes the District Commissioner (DC) ---

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. I was not asking about the composition of the committees. I am just asking what the contract sums were and what percentage of work had been done by the time the contract was terminated.

Mrs. Mugo: Mr. Speaker, Sir, I thought it was in order because this is information which is also in the possession of the Member of Parliament. All letters have been copied to the Member of Parliament. The amount of the contract is Kshs16 million, and at the time of its discontinuation, 35 per cent of the work had been done.

Mr. Shakeel: Mr. Speaker, Sir, could the Minister confirm or deny that the actual buildings that have been designed can be built using Kshs16 million? Our indications are that Kshs16 million will build less than one-third of the designed buildings. How is the Minister going to meet the deficit?

Mrs. Mugo: Mr. Speaker, Sir, I can confirm that they can be finished. As I speak now, there are seven constituencies which have completed their works. Those are three in North Eastern Province and four in Nyanza Province---

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. The ones which are listed as having been completed are only partially completed. All the ones the Minister is talking about, including the one we are doing at Gita in Kisumu, we have had to do a third of the buildings. The total cost is over Kshs45 million.

Mrs. Mugo: Mr. Speaker, Sir, the best person to answer this Question is the Minister for Public Works, who is in charge of construction and works. However, I can confirm here that those which have been completed have been inspected and certified as well completed. Different areas might have different costs of construction; therefore, we cannot go by the fact that since an amount has been used to finish buildings in one area, the same amount should be able to finish others in a different area. However, that is for the Ministry of Public Works to value with the project manager and the committee on the ground and then advice. As it is now, we are ready to put equipment and furniture to those which are completed.

Mr. Njuguna: Mr. Speaker, Sir, while thanking the Minister for the good answer, could she inform this House the extra effort and commitment the Ministry is making to make sure that these funds are not returned to the Treasury before the end of this financial, so that the community benefits from the funds allocated to these projects?

Mrs. Mugo: Mr. Speaker, Sir, we are in discussion with the Treasury, and I believe that for the work that is started, it will have to be finished. However, the funds will be rolled over to the project. This is what happened in the last financial year. I would like to inform hon. Members that I will table in this House the whole programme showing the status of the work as of now. I will show those who have done over 90 per cent, those still at 25 per cent and those at 50 per cent of the work. From that, you can see which projects are likely to be finished before the end of this financial year.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Member for Kisumu Town East? It had better be a point of order!

Mr. Shakeel: Mr. Speaker, Sir, the Minister keeps referring to 90 per cent or 25 per cent work done, I appreciate what she is trying to say. However, we should consult the Ministry of Public Works. Will I be in order to ask that the Chair refers this Question to the Ministry of Public Works and ask if the whole project as designed for all the constituencies can be completed using the Kshs16 million?

Mr. Speaker: Order! Order! The Member for Kisumu Town East, I am afraid I will not accept that at this point in time; not after we have given this Question a whole 10 minutes!

Mr. Shakeel: But it is a very important Question!

Mr. Speaker: Yes, the Member for Migori!

Mr. Pesa: Thank you, Mr. Speaker, Sir. While the Minister has given us a relatively good answer, I remember some cases, like in Migori where hardly 60 per cent of the work has been completed and yet Kshs11 million has been paid. Could she tell us how much money has been paid so far in the case of Vihiga?

Mrs. Mugo: Mr. Speaker, Sir, we have paid Kshs5.6 million for Vihiga. I have the figure somewhere here but I cannot find it now. However, that amount is over Kshs5 million. My papers got mixed up.

Mr. Speaker: Ask the last question, the Member for Vihiga!

Mr. Chanzu: Mr. Speaker, Sir, the Minister is not very sure of the answer she has given. I thought she consulted because Mrs. Ngilu has been the Minister in that Ministry. However, the Ministry of Health, as the client, must know what the Ministry of Public Works does for her. The District Medical Officer of Health is the one that represents her on this project. I would like the Minister to tell this House the measures she will put in place to make sure that when they re-tender, the work will be done properly and within the stipulated time. This is because we have already spent more than double the time to reach 35 per cent. The Minister should bear in mind that her Ministry is the client.

Mrs. Mugo: Mr. Speaker, Sir, the Government is the client and I am an agent. We are in consultation with the Ministry of Public Works. They have taken the site and we have impressed upon them that this work must be done within this financial year. We will make sure that, that is reflected in the new contract. I hope that the committee on the ground will support us to make sure that, that happens according to schedule. I also hope that my officers will visit the site regularly and the MoH will keep an eye or check on the work. I would like to assure this House that the project will not be abandoned.

Mr. Speaker: We will go back to Question No.795 by the Member for Mumias!

Question No.795

RECRUITMENT OF MANAGEMENT TRAINEES BY MSC

Mr. Washiali asked the Minister for Labour:-

(a) how many management trainees were recruited in the recent exercise by Mumias Sugar Company and how many of them are from the Mumias Sugar Zone;

(b) what criteria the Company used in identifying the trainees; and,

(c) what steps he will take to ensure that the company considers the locals for such opportunities.

Mr. Speaker, Sir, indeed, I have looked at the two lists. While the Assistant Minister talks of having tabled one list, he has actually tabled two lists. One of the lists is by districts and the other one is by profession. The list that was tabled for profession has more than the number of the management trainees that were recruited. I do not know whether that is the one that contains eleven members from Mumias District. However,

the list by districts has only two names from Mumias District. Would I be in order to ask the Assistant Minister if we could compare notes and have this Question deferred to a later date because he has tabled two lists instead of one?

Mr. Speaker: Order! Mr. Assistant Minister, what is your reaction to that?

The Assistant Minister for Industrialization (Mr. Ojaamong): Mr. Speaker, Sir, I have actually tabled two lists. One list was a general one and for all the applicants. It contains the people who were selected and a pool of people in case those ones missed to come can be selected from. I had a specific list where I listed the 35 people who were selected and I have indicated the districts where they come from. If the hon. Member does not understand it now, we can give him ample time so that he can digest the list and understand it adequately.

Mr. Speaker: Fair enough! The Member for Mumias, how long do you require?

Mr. Washiali: Mr. Speaker, Sir, we could do this and get the Question back on the Order Paper by tomorrow.

Mr. Speaker: The Member for Mumias, your business is not the only one that the House has to deal with. I am afraid I will have to defer the Question until Tuesday, next week at 2.30 p.m.

Mr. Washiali: Most obliged, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Very well. That then brings us to the end of Question Time. What is it, the Member for Budalangi?

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.23

ADJOURNMENT ON DEFINITE MATTER OF URGENT NATIONAL
IMPORTANCE: SPIRALING FUEL/FOOD PRICES

Mr. Namwamba: Mr. Speaker, Sir, I rise on a point of order under Standing Order No. 23 that provides that any hon. Member may at any time rise in his or her place and seek leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent national importance.

Mr. Speaker, Sir, while heading to this House this afternoon, many of us ran into groups of Kenyans demonstrating and expressing their disaffection with a scenario that is one that this House cannot ignore. That is a scenario over the sharp rise in the price of fuel which has caused a domino effect to the extent that the cost of living is spiraling out of control for the ordinary Kenyan.

I plead with the Chair and this House to take note of this development and set aside time for this House to ventilate on this matter with a view of focusing national energy and attention on this matter so that we can find a solution.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Members! I have examined the Motion proposed by the Member for Budalangi and I am satisfied that it is definite, urgent and of national

importance. However, I have to ascertain whether or not the House has interest in the matter.

(Several hon. Members stood up in their places)

Order! I am satisfied that you have the requisite numbers supporting the Motion. Hon. Members, I direct that this matter be given time beginning from 4.30 p.m.

(Applause)

Next Order!

POINT OF ORDER

HARASSMENT OF MEMBERS OF TURKANA COMMUNITY IN KITALE TOWN

Mr. Wamalwa: Mr. Speaker, Sir, a while ago, Mr. Ethuro, the Member for Turkana Central did request for a Ministerial Statement from the Ministry of Local Government relating to the Turkana community in Kitale Town that has been under constant harassment and in danger of eviction. Up to date, the Minister has not given this Statement. Two days ago, members of this community were evicted from their Manur plot and as we speak today, the rains have started, the people of Trans Nzoia are planting and the poor families are out in the cold.

Mr. Speaker, Sir, I do request that further directions be given as to when the Minister can give this Statement relating to this community.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The Minister for Lands, when can this Statement be made? The Deputy Leader of Government Business, this matter has been pending for far too long!

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, we will communicate and attempt to have it this Thursday.

Mr. Speaker: Thursday, this week?

The Minister for Transport (Mr. Kimunya): Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well. It is so ordered.

Next Order!

MOTION

ADOPTION OF REPORT ON BUDGET POLICY STATEMENT

THAT, this House adopts the Report of the Budget Committee on the Budget Policy Statement for the year 2011/2012 laid on the Table of the House on Wednesday 13th April, 2011.

Mr. Speaker: Hon. Members, you will notice that the next Order pertains to a Motion in respect of adoption of the Report of the Budget Committee on the Budget

Policy Statement for the Year 20011/2012. But hon. Members, I have received intimation, and, indeed, considered a matter, which is being raised by the Departmental Committee on Defence and Foreign Relations that they deem, in their opinion, ought to have been carried in this Report, but it is not yet properly or fully transacted. So, on that basis, I direct that the Departmental Committee on Defence and Foreign Relations is afforded adequate time to makes its presentations to the Committee, and the Committee then makes a decision, which I then, as the Speaker, will consider whether or not it is suitable, to be incorporated in the Report.

So, for those reasons, I will defer Order No.8 to Thursday afternoon at 2.30 p.m. I urge the Committee to take all necessary steps as required to ensure that its business is properly and procedurally transacted.

(Motion deferred)

That then would take us to Order No.9

Second Reading

BILL

THE LIMITED LIABILITY PARTNERSHIP BILL

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I beg to move the Limited Liability Partnership Bill, 2010---

Hon. Members, may be aware that in an ordinary partnership that sought to confer any legal personality on its own, but it is merely a way of describing the individual partners to make up the partnership. Each partner is held responsible, not just for the liabilities caused by his actions, but also for liabilities incurred by each partner. This is the major defect that this Bill is trying to cure. This has been the cause of breakups of many partnerships. There is no other better example like the famous Kayamba Africa. When they were struggling, they were so much united. After they became successful, there are as many Kayamba Africa as there are singers. This is the importance of this Limited Liability Partnership Bill that this House is being asked upon to pass.

A limited partnership, on the other hand, has partners, who at the time of entering into the partnership, contribute a sum---

Mr. Speaker: Order! Mr. Minister, you were recorded on the HANSARD as not having done what you ought to do even as you move the business under Order No.9. If you recollect, what you have done, could you come again; “you beg to move” what?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Speaker, Sir, I beg to move the Limited Liability Partnership Bill, 2010---

Mr. Speaker: That is not complete!

The Minister for Nairobi Metropolitan Development (Mr. Githae): Be read a Second Time!

Mr. Speaker: Correct, that now is complete.

The Minister for Nairobi Metropolitan Development (Mr. Githae): Thank you, Mr. Speaker, Sir.

I was on the point of informing the Members the importance of this Bill is to cure defects that are currently in the Limited Partnership Act, Cap. 10 of Laws of Kenya.

Mr. Speaker, Sir, what this Bill is proposing is that, once you have a limited partnership, the partners, at the time of entering into the partnership, will contribute a specific sum as capital. This would be their only liability as far as that partnership is concerned. Unlike the current case where once you are a partner, you are personally liable, not only for the debts of the partnership, but also for the debts and liabilities of your other partners.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Dr. Laboso) took the Chair]*

As I said, this has been the main cause for the break-ups of very successful partnerships which initially do so well, but once they start being successful, problems arise. As I said, this is the main defect that this Bill is trying to cure.

Madam Temporary Speaker, the Limited Liability Partnership Bill seeks to repeal and replace the Limited Liability Partnership Act. As I said, this is Chapter 30, of Laws of Kenya. The main distinction between the old Act and this Bill is the elaborate provisions on the establishment and functioning of the limited partnerships. It is hoped that the new law will encourage development professional business in a stable environment. This Bill was developed by a taskforce that was established by the Attorney-General. This taskforce was on companies, insolvency and partnerships. All the stakeholders were involved. Lawyers, accountants, NGOs and any person who has interest in business were involved. This is the Act they came up with. The amendments were too many. Therefore, it was decided that a new Act of Parliament be enacted through this Bill.

Madam Temporary Deputy Speaker, this Bill has very specific provisions. First of all, it constitutes the Office of the Registrar of Limited Liability Partnerships. The Bill proposes that the Registrar of Companies be also the Registrar of Limited Liability Partnerships. This will mean that it is possible to implement the Act of Parliament, once it is passed by this House immediately because the Registrar of Limited Liability Partnership will be the same as the Registrar of Companies. Therefore, he or she will use the officers and facilities that are currently at the Companies Registry. The procedure for establishing limited liability partnership is still being simplified. All you will be required to do is to present a set of documents with the Registrar of Limited Liability Partnership. Once the Registrar is satisfied that you have submitted all the relevant documents, your limited liability partnership will then be registered.

Madam Temporary Deputy Speaker, one of the provisions I really like about this Bill is the fact that it will be possible, for the first time, to register a limited liability partnership electronically. That has been the main problem with our Companies Registry. You have to physically present documents to the Registrar of Companies. In countries like Mauritius and Oman, you can actually present your registration documents from wherever you are on the globe. That has been a major failure, but I am glad that this Bill has settled that problem.

Once a limited liability partnership is registered, it becomes a body corporate with a legal personality, which is separate from that of the partners. This has been a major defect in our existing partnerships. It is not clear at any given time whether the partner is acting in furtherance of the partnership business or in furtherance of his own personal interests. That is basically what has caused “deaths” to a lot of partnerships. One of the partners may claim that what the other partner did was not in furtherance of the partnership business and, therefore, claiming that he is not liable or responsible for the debts and other liabilities of the partnership.

Madam Temporary Deputy Speaker, under this Bill, once a limited liability partnership business is registered, the partners are not personally liable under contracts and other matters relating to the business of the partnership. The quantity of damages by a limited liability partnership will be met out of the property of the partnership. Again, this has been the main problem with existing partnerships. Where a partnership business fails, the partners are sued and the debts are recovered, not from the assets of the partnership but from the assets of the partners themselves. This has been a major drawback in our current partnerships.

This Bill provides that when a partner acts within the authority of a limited liability partnership, the actions of that partner shall guide the partnership. This applies equally in cases where a person ceases to be a partner but that fact is not notified to the Registrar, or publicised, for general information. What this means is that if you were a partner of a limited liability partnership and you cease to be a partner, if you do not file the necessary papers with the Registrar, or publicise the fact that you have ceased to be a partner of that limited liability partnership, you will continue to be held responsible for the debts and liabilities of the partnership. That is the way it should be because once you establish yourself as a partner, people will treat you as a partner. Therefore, if you cease to be a partner, you must inform the general public and the Registrar of Limited Liability Partnerships.

Madam Temporary Deputy Speaker, this Bill also provides for the formulation of partnership agreements to govern the limited liability partnership and define relationships between partners and their mutual rights and duties. If partners do not draw up articles of partnerships, this Bill provides for the automatic incorporation of the rules and articles of partnerships as provided for therein. This provision pleases me because, again, lack of such a provision has been a major defect in our current partnership laws.

This provision has been borrowed from the Companies Act, where it says that if the Articles of Association are not stated specifically, the Companies Act presupposes that the Articles that are in the Companies Act are the ones to be deemed to apply. So, again, it shows that this defect has been cured.

Madam Temporary Deputy Speaker, Clause 14 of the Bill provides for restitution to be imposed on a partner who becomes bankrupt. I am happy about this provision because, again, this has been a major drawback in the current partnerships. It is not possible to assign your rights in a partnership if you become bankrupt. What this would have meant is that people owed money would then have been able to satisfy their debts, not from the partnership’s assets but from the assets of the partners, meaning that the partnership could actually draw upon your other assets, which you acquired not from the partnership but from your other personal sources. So, this Bill seeks to cure a lot of defects which are currently in partnership businesses.

Madam Temporary Deputy Speaker, Part IV of the Bill contains a requirement for registration of a limited liability partnership. This comprises of lodging of statements indicating, among other things, the particulars of the partners, the nature of the business of the partnership and the registered office. We have had a major problem where partnerships have no registered offices. Under this Bill, they must have registered offices. We have had cases where the particulars of partners are not given. Most of the partnerships in this country are briefcase partnerships. They are partnerships in name only. They have neither registered offices nor managers.

This Bill is trying to cure all those omissions by requiring that the particulars of partners, nature of the business, registered offices and managers are stated. The Bill goes further to say that there must be a manager who is resident in Kenya, even if the partners are foreigners. Again, this cures that major defect. One of the provisions of this Bill is that upon issuance of certificate of registration by the Registrar, it should be conclusive proof that the applicants have complied with the prescribed requirements. So, you do not have to go behind the veil and try to find out whether the partners are duly registered or whether they are conducting lawful business. Once the Registrar of Limited Liabilities Partnerships has issued a certificate, that is conclusive evidence, and it can be tabled in a court of law.

Madam Temporary Deputy Speaker, Part V of the Bill provides for conversion of ordinary partnerships or private companies into limited liability partnerships. Again, the most important thing is ordinary partnership. In other words, this Bill enables the current partnerships to be converted into limited liability partnerships. Even private companies can be converted into limited liability partnerships. However, you will notice very significantly that public companies cannot be converted into limited liability partnerships.

After registration of a partnership of a private company, it is transformed into a limited liability partnership and it assumes the debts, interests, rights, liabilities and all the obligations previously attached to the partnership of the limited liability company.

Madam Temporary Deputy Speaker, the Second Schedule of the Bill contains other transitional provisions necessitated by the conversion. The new registered partnership is required to ensure that after the expiry of 14 days of such registration and for 12 months thereafter, all documents sent out from its offices contain a statement of such conversion, giving the name and the registration number of the partnership from which it was converted. Again, this is important, so that you can be able to trace where this limited liability partnership came from. In other words, you can trace that it came from either a notre partnership which has been converted into limited liability partnership or from a private company.

Part Six of the Bill has provisions relating to the management of limited liabilities. Clause 27, as I mentioned earlier, requires that there be a manager who must be of adult age and who must be resident in Kenya, so that at any given time, if you want information about this limited liability partnership, there is somebody who is legally obligated to furnish you with that information. Again, this is cure for the so-called brief case partnerships which exist today and tomorrow they do not exist. That is the defect that is being cured. It requires that the manager shall personally be responsible for ensuring that the partnership complies with the provisions relating to the lodgement of the annual declaration of solvency of the partnership, the form of documents issued by the partnership and the notification of changes to the Registrar. In other words, the

resident manager is personally responsible and liable for this information. Again, this is to make sure that any time you want information, you get it and quickly. If the resident manager does not provide you with that information, then there are penal sanctions that can be imposed on him or her. The manager is personally responsible to comply with that requirement.

Madam Temporary Deputy Speaker, under this Bill, partnerships must keep proper accounting records and not recording transactions on sheets of paper, exercise books and diaries. They must maintain proper records of accounting. These records must sufficiently explain the transactions and the financial position of the partnership. It must give a true and fair view of the state of affairs of the partnership. The defect that is being cured is again briefcase partnerships, which do not keep any records or you find partners, and this in the public domain, keep two or three sets of accounts. There is one set for the Income Tax which shows losses. Another set of accounts is for the other partner to show reduction in profits to reduce the dividends payable to the partnership. Then there is another set of documents for the partner which are the true accounts, so that the partner knows how much he has actually swindled from the partnership. Again, under this Bill, the partnership must maintain proper accounting records. In other words, it must have ledgers, those who are accountants, cash books and bank statements. All the other accounting records must be maintained by the partnership.

Part VII of the Bill contains provisions on the winding up of a limited liability company. These are set out more detailed in the Fourth Schedule. Under this Schedule, the application for winding up may be made to the court by the partnership itself, a creditor, a partner, the official receiver or a trustee of the bankrupt partner or a liquidator. Again, you can see that almost anybody who may have a stake in the partnership is allowed to petition for the winding up. This could be, as I said, a creditor, a partner, the official receiver, a trustee of the bankrupt partner or even by a liquidator. Even the Minister responsible for partnerships has also been given, in certain circumstances, to petition for the winding up of partnerships. Hon. Members, will ask themselves: Under which circumstances can the Minister apply for the winding up? What comes in mind is, if, for example, the partnership engages in illegal business or activities, then the Minister has power to call for the winding up of the partnership.

Madam Temporary Deputy Speaker, where a winding up order is made, the official liquidator shall be appointed for the partnership and the Schedule has detailed provisions on the powers and the activities of the liquidator. Again, you will find that we have a major problem with our Companies Act. The Companies Act provides for the appointment of a receiver and manager. Unfortunately, all the official receivers and managers do not manage the business. They are only concerned more in liquidating the business rather than nursing the business back to good health. In my view, if I can recollect, there has been only one successful receiver manager. This was the Uchumi, Mr. Zano. That is the only one who was able to manage Uchumi Supermarkets from its deathbed into good health. Under this provision, the receiver manager is mandated to, first, nurse the business back to good health before calling for a liquidator.

Lastly, once this Bill is passed, then the limited liability partnership, which is Cap.30 of our Laws of Kenya, will stand repealed. Under the transitional clauses, it is provided that upon registration, the existing limited partnerships shall continue under this Bill when it is enacted. In addition, all rights and liabilities---

Mr. Shakeel: On a point of order, Madam Temporary Deputy Speaker. I did not want to break the flow of thought of the Waziri, but I have sat here for the last 25 minutes and all he has done is describe what a limited company is. It appears to me, in my ignorance, that what he is trying to bring as a Bill, is a conversion of a public partnership into a limited company. It is very clear that what he is proposing is a limited private partnership which is exactly what a limited company is. Could he confirm that what he is doing is converting a limited company which he is now calling a limited private partnership?

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

The Temporary Deputy Speaker (Dr. Laboso): He was on a point of order!

Mr. Mureithi: That is what I want to get your guidance on.

The Temporary Deputy Speaker (Dr. Laboso): You want to get guidance on his point of order?

Mr. Mureithi: On a point of order, Madam Temporary Deputy Speaker. Is he in order to debate---

The Temporary Deputy Speaker (Dr. Laboso): Mr. Mureithi, can we dispose of one point of order first before we move to the next one? Could the Minister confirm? Have you understood the point of order from the Member, hon. Minister?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Madam Temporary Deputy Speaker, I have understood, but he had said that we forgive his ignorance and I have forgiven him for his ignorance.

The Temporary Deputy Speaker (Dr. Laboso): What is his ignorance, Mr. Minister? Are you making judgement on the Member?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Madam Temporary Deputy Speaker, that is what he said. He begged for our forgiveness on his ignorance, but I can explain. There is a distinction between a private limited liability company and a limited partnership. It is so obvious, but maybe, I did not point it out. I will go into it for the sake of other people.

This Bill is trying to give provisions for the conversion of ordinary partnerships into limited liability companies. Currently, we have limited liability partnerships under Cap.30 of the Laws of Kenya but it is now outdated. It was passed a long time ago and there have been a lot of development in the world of limited liability partnerships. The businesses that you hear about Price Waterhouse Coopers and others of that nature---

(Mr. Shakeel consulted with Mr. Mbadi)

The Temporary Deputy Speaker (Dr. Laboso): Mr. Shakeel, you have asked a question and you are spending time talking to Mr. Mbadi when you are supposed to get a response.

Mr. Shakeel: Madam Temporary Deputy Speaker, we are listening to him while consulting.

The Temporary Deputy Speaker (Dr. Laboso): Could you, first, allow the Minister to explain what you asked him?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Madam Temporary Deputy Speaker, I am saying that there is a big distinction between a limited liability partnership and a private limited liability company. There is a big difference

particularly on the registration process and the management. For example, you cannot have more than 50 members of a private company with limited liability. If you have more than 50 members, then you must convert it into a public company. Basically, this is what this Bill is trying to do. It is trying to update our current Cap.30 with adequate provisions to cure all the defects. I have said that most of them have been leading on briefcase partnerships.

Madam Temporary Deputy Speaker, having clarified that, I beg to move and request Mr. Kimunya to second this very important Bill.

The Minister for Transport (Mr. Kimunya): Thank you, Madam Temporary Deputy Speaker. I rise to second this Bill that aims for the first time to create these limited liability partnerships and put Kenya on the same scale as the rest of the world that has moved.

Let me start by thanking all the various stakeholders who have been working on this, as part of the reforms on the institutional frameworks that govern or guide our companies, partnerships and all the business community. It has been worked on since the 1990s. If I remember, it came together with the revamping of the Companies Act when people asked why they do not also start sorting out the issue of partnerships. Hon. Members may recall a certain partnership that has gone under and, unfortunately, it is not the poorest of the partners who suffer. It is the most hardworking of the partners who actually suffer because under the partnership law, you are jointly and severally held responsible for all the debts of the partnership. This has caused people to start looking for ways of even setting up companies when they should have actually been dealing with issues that are best dealt as partnerships. This is especially on the ones that require certain skills and where the people professing or practising those skills are licensed, because of the skills they have rather than the capital they have invested. However, in the absence of any protection in terms of their capital, people have ended up moving and forming, for example, consultancies through companies instead of forming a consultancy, through putting the various partners through a limited liability partnership.

So, we see this as a natural response to the cries of all the professionals who have wanted a framework to operate, but with their risks limited to what they put in or agree. I must congratulate the Attorney-General's office for not only updating the Companies Act and the Partnership Act, but also for bringing this hybrid which will now resolve the issue for all the professionals many who are represented in this House. They would like to practice their professional skills, but at the same time ensure that what they stand to lose in the event of winding up or something going wrong with their operation is clear.

Madam Temporary Deputy Speaker, I also want to mention here that this is part of the reforms that the Kibaki administration has been bringing forward as part of the response to the cries for bringing down the cost of doing business. With the addendum risk that has been there in the partnerships, obviously, people have had to take very high insurance covers which cost a lot. This cost is eventually passed on to the client. However, having sorted out this kind of risk from the formation of business, you can expect that people will operate with ease and that each of the partners will now be more concerned with better governance of the partnership rather than worrying about what is happening to each of the partners, where they were last night or where they will go tomorrow. This is just in case they do something that commits the entire partnership and

before you know what is happening the auctioneers are at the door of the most hardworking partner to attach property.

Madam Temporary Deputy Speaker, this is a Bill that is self-evident and does not require any marketing if I may use that word. It is clear-cut and I urge the House to give our business community what they have been yearning for. I believe that most people have been registering what they call partnerships without realising the risk they are putting themselves into. Eventually, when the auctioneers come, it becomes trouble and that puts off the others. However, with the passage of this Bill, I am sure that all the existing practitioners and partnerships would like to take maximum advantage and migrate to the new platform so that they can be protected.

We have witnessed situations in this country where getting any two professionals, for example, engineers, accountants or lawyers and telling them to merge and form a huge partnership to attract multinational business will be met with reluctance based on “I cannot trust my partner.” As a result, most of the firms have remained small and cannot compete in Kenya, leave alone within the East African region, the COMESA or globally basis. With the opening up of all the barriers that can be put locally, our people face the risk of being declared extinct by the coming in of huge practitioners from the West and North and opening their offices here. Our people will never be able to compete with them. We can see it very clearly on all the jobs that are advertized and the tenders that are being won. It is the big corporations that win, because our people are very small. The turnovers that are being requested; that you have must have done a turnover or a certain thing for you to apply for this job, become a big problem. I believe that this Bill will sort this out so that we can now start syndicating and bringing together the various stakeholders and tell them that the law is there for them. We should ask them why does partnership 1, 2, 3 and 4 not team up through the limited liability partnership framework to create a mega partnership of engineers or accountants to respond to the regional needs and demand that is currently there, instead of just waiting for foreigners to come and fill it up.

Madam Temporary Deputy Speaker, like I said before, this is a Bill that does not require a lot of persuasion. I would like to urge the House to support the business community that has been crying for this and give them a law that will help them.

With those remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now 4.30 p.m. I call upon Mr. Namwamba to move his Motion.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.23

ADJOURNMENT ON DEFINITE MATTER OF URGENT NATIONAL
IMPORTANCE: SPIRALING FUEL/FOOD PRICES

Mr. Namwamba: Madam Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House do now adjourn.

Madam Temporary Deputy Speaker, I want to invite this House to listen very keenly to the people of this country. I want them to listen and when they do so, they will realize that Kenyans are very angry people. They are angry because they are hungry. This anger and hunger is for a good reason.

A recent survey by research firm, Synovate, which published a poll last week indicated that the most important concern on the minds of the majority of the people in this country is not who will be their next President or who will not be. Their biggest concern is not the premature campaign mood that we have taken this country into. Their biggest concern is not the kind of political grand standing that we have chosen to play. Their concern is not even the ICC trials in The Hague. Kenyans are saying that their worst nightmare today is the struggle to keep body and soul together. It is the struggle to survive from one day to the other. It is the struggle and the pain that parents in this country have as they watch their children go hungry and literally wither before their own eyes. Therefore, this morning, Kenyans came out to express their anger at this situation.

Madam Temporary Deputy Speaker, with me here is a petition from the Consumers Federation of Kenya which is titled: "Urgent Call to Action Due to the Unbearable Food and Fuel Prices". This petition which with your kind indulgence, I wish to table and place on the record of this House, isolates the critical issues that have brought this country to where we are right now.

(Mr. Namwamba laid the document on the Table)

These issues include the following: one, that the cost of fuel in this country has risen to levels that are simply unmanageable and unaffordable for the majority of the people in this country. The pump price for kerosene has jumped to Kshs92 today. You may want to note that Kshs92 is essentially half the average daily labour payment for an ordinary labourer working at a construction site who takes home an average of Kshs200. If this young person labouring at a construction site for a whole day takes home Kshs200 and has to spend half of that money on a litre of kerosene which is not even sufficient to light the House for the evening and to cook a meal for the evening, you start to understand the enormity of this problem.

Madam Temporary Deputy Speaker, you will also want to note that the last census did indicate that four million Kenyans directly use kerosene in their households across the country. So, the price of Kshs92 per litre of kerosene has literally pushed four million Kenyans across this country to a scenario where they can hardly survive.

Of course, the cost of petrol has also gone up considerably. A litre of petrol is now retailing at Kshs113 while that of diesel is at Kshs107. The domino effect of this is that it has pushed up the cost of production considerably to the extent that the cost of a two packet maize meal flour now retails at between Kshs87 and Kshs133. That is an increase of Kshs30 in a period of just three months. This is an average of Kshs10 per month increase.

This can be extrapolated across all the basic essentials like sugar, wheat flour, rice and bread. The other thing is that this has hit the cost of travel and transport considerably. Today, for you to travel from Nairobi to western Kenya, you have to pay an average of

Kshs200 to Kshs300 more than usual. The average cost of travel to western Kenya is now Kshs700 up from Kshs400 to Kshs500.

Only yesterday, the Matatu Owners Association raised the fares of travelling in matatus in this town by 30 per cent. This can be extrapolated again across the whole country. Even a trip to a place like Nyeri which could be considered fairly close to Nairobi is now costing a traveler an average of Kshs400.

Madam Temporary Deputy Speaker, manufacturers are warning that this scenario is likely to get worse. Even players in the travel industry have also warned that this can only get worse unless we do something about the cost of fuel.

There is, therefore, reason to believe that we, as leaders, have failed our people. As fuel prices spiral skyward and the cost of basic necessities spin out of control where are we expending our energies? Where are we engaging our brains?

Madam Temporary Deputy Speaker, it is sad to submit that we are chasing the wind in trying to outdo each other politically instead of addressing ourselves to finding a solution to this problem. The problem which we must focus our energies on is summed up in the saying that: "failing to plan is planning to fail". We have failed to plan, therefore, plunged ourselves into this problem.

The three devils that this House must fasten its mind around and find a solution to are the following: one, is the problem of energy policy incoherence. There is obviously a problem in the energy sector.

With me here is a report handed to the Ministry of Finance and the Ministry of Energy in February, 2006. This report was prepared by the Inter-Ministerial Taskforce that was set up in 2005 to investigate cartel-like behaviour of major oil companies in Kenya. This taskforce was constituted by the head of the Public Service, Amb. Francis Muthaura with authorization of the Cabinet. This taskforce did an excellent job. Indeed, leading experts in this sector agreed that if the Government had implemented some of the policy measures recommended in this taskforce report some of the problems we are facing today would not be confronting this country today.

Among the policy proposals of this report was included, unbundling the industry to ensure that companies do not play both wholesaler and retailer in the market. It also included a proposal for a price stabilization fund. This is a fund that was supposed to be established with proceeds from the petroleum levy to deal with volatility, something akin to stabilization of prices in the market.

The question I wish to put to the Government, specifically the Minister for Energy who is here today, is: Why has the Government not implemented this report prepared by a taskforce that spent public resources and coming up these excellent proposals?

Madam Temporary Deputy Speaker, the second problem that we must address is the problem of inefficiency in the corporate governance of institutions that are in charge of the supply chain of oil products. Here, I am talking about the Kenya Oil Refineries, the National Oil Corporation of Kenya (NOCK) and the Kenya Pipeline Corporation (KPC). There is a problem in these institutions.

Their problem is partly contributed to by the micro-management by the Ministry of Energy. By micro-managing these institutions, the Ministry of Energy has not allowed them to grow and be able to play their rightful role. To such an extent that even new institutions like the Energy Regulatory Commission has become more of a burden than a solution to this problem.

The third devil that must be slain is the devil of grand corruption. I submit with absolutely no fear of contradiction that today Kenyans are paying the price of grand corruption in the energy sector. There are many reasons for this, but unfortunately because of time, I may not go into the details of this. But I have sufficient information with me here which includes activities of NOCK in the month of February whose attempt to import oil using wheeler-dealers and competitively so burdened this country with stock of fuel whose disposal today is part of the reason why prices of fuel have shot up. That is because somebody somewhere is determined to profiteer while ordinary Kenyans are suffering. Until and unless we slay the vampire of corruption in the energy sector, we will continue to be encumbered by this problem. I have details on this and I am ready to table them before this House. Let me quickly go to what I believe could be the solution to the problem.

Madam Temporary Deputy Speaker, one, the Government must quickly---

The Minister for Energy (Mr. Murungi): On a point of order, Madam Temporary Deputy Speaker. While I want to thank the hon. Member for his very eloquent contribution, we will not allow him to get away with wild statements about corruption. He has said that he has a lot of information about corruption regarding a National Oil Corporation of Kenya (NOCK) tender. Could he, table those documents if he has them right here?

The Temporary Deputy Speaker (Dr. Laboso): Let us dispose of the first point of order. Could you table whatever documents you say you have in your possession?

Mr. Namwamba: Madam Temporary Deputy Speaker, I have information. As you can see, I am technologically savvy. I am making this submission using top of the range Markbook Air Apple and, if the Minister allows me the time, after this submission, I will print this entire report and I will be more than glad to share it with him. If he could also give me his e-mail address, I will send this information to him online. Meanwhile, allow me to finish my submission.

The Minister for Transport (Mr. Kimunya): On a point of order, Madam Temporary Deputy Speaker. The Standing Orders in this House are very clear. Members are responsible for the accuracy of the statements that they make and we have never had any incident where people have said it is in my computer and I will come and e-mail it or deliver it later. It must be done now or he must withdraw and apologise.

Mr. Namwamba: Madam Temporary Deputy Speaker, it is a new world; a new Constitution.

Hon. Members: On a point of order, Madam Temporary Deputy Speaker!

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Hon. Namwamba, can you substantiate what you have just said?

Mr. Namwamba: Madam Temporary Deputy Speaker, would the Chair indulge me---

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

The Temporary Deputy Speaker (Dr. Laboso): Order! Hon. Midiwo, could he answer the point of order first before we move to the next one!

Mr. Namwamba: Madam Temporary Deputy Speaker, no amount of intimidation will stifle the truth. The truth will come out. If the Chair would indulge me a moment, 30 minutes after this submission, I will print this entire report and share it with the Minister.

Hon. Members: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Can we have order in the House!

The Assistant Minister for Livestock Development (Mr. Duale): On a point of order, Madam Temporary Deputy Speaker. We are not in a market place. We are in the National Assembly of the Republic of Kenya. There are procedures and Standing Orders to be followed. They are very clear on how a Member must table documents and how he must substantiate. Otherwise, we should not deviate from that. We are not in a fish market.

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. I would like to invite your ruling on this matter. We are in a new technological era and if I use a markbook, then we have to know the mode of communicating things which are in software before Parliament. Is it by way of e-mail which we can give immediately or is it by way of tabling? You need to protect me because I am raising a very fundamental issue relating to the technological era. In the new technological era, you cannot ask us to table a computer. We are dealing with software.

Hon. Members: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! This is generating a lot of interest and there is a precedent being set here. I rule that we are going to get time so that we can deliberate on this. We can come with an answer to this question on Thursday.

Hon. Members: On a point or order, Madam Temporary Deputy Speaker!

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! I have ruled. Proceed, hon. Namwamba!

Mr. Namwamba: Thank you, Madam Temporary Deputy Speaker. I would have no problem to table this laptop. Further, according to the rules, I have until the next Sitting to table. You have already ruled and I have until the next Sitting.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Member, you can now not use the same document that we are going to rule on? Since we are going to make a ruling on the admissibility of your evidence, do not use it for now until the Speaker has made a ruling.

Mr. Namwamba: I oblige, Madam Temporary Deputy Speaker.

Hon. Members: On a point or order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Are we going to run this House in this manner? The Chair is up standing! We are going to conduct ourselves in a civilized manner. Hon. Member, we are going to make a ruling on your case. So, we leave the matter. Do not bring it up again, hon. Namwamba. We leave it until the ruling on Thursday. Hon. Members, allow him to finish because he has now taken more than his ten minutes. Conclude, hon. Namwamba!

Mr. Namwamba: Madam Temporary Deputy Speaker, I am most obliged and I will---

Dr. Machage: On a point of order, Madam Temporary Deputy Speaker. The Chair and, indeed, you as the Temporary Deputy Speaker, ordered that hon. Namwamba substantiates or withdraws. Can that be done?

The Temporary Deputy Speaker (Dr. Laboso): Hon. Machage, my ruling was on the admissibility of the document that he has presented, which is on a laptop. That is

my ruling and I said because of the evidence that he is providing, he should not mention it anymore. He should not bring that evidence for now. He should continue to conclude so that we can move on with the business.

Hon. Members: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Madam Temporary Deputy Speaker is up standing. I shall rule you out of order! Conclude hon. Namwamba!

Mr. Namwamba: Thank you, Madam Temporary Deputy Speaker. I conclude with the following interventions.

(Several hon. Members interjected)

Hon. Members: On a point of order, Madam Temporary Deputy Speaker.

Hon. Members: Throw them out!

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Nderitu. Order, hon. Duale. Order, hon. Nguyai! Hon. Namwamba, could you make your concluding statement and we move on?

Mr. Namwamba: Yes, Madam Temporary Deputy Speaker. The following solutions need to be considered:-

(i) policy coherence.

(ii) Subsidy, including subsidies for kerosene and some basic goods.

(iii) We must destroy cartels and slay the dragon of corruption, however hard corruption may fight back because we know it will always fight back.

The Temporary Deputy Speaker (Dr. Laboso): Your time is up!

Mr. Namwamba: Madam Temporary Deputy Speaker, Sir, I move and request the hon. Member for Rarieda to second this Motion.

Eng. Gumbo: Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to second this Motion. I want to go on record that I was just ten minutes behind hon. Namwamba in requesting the Speaker to allow this Motion.

Hon. Members, I request that, as a House representing the people of this country, let us debate this Motion soberly. I request and beg you. This is a matter of life and death for some members of our society.

Madam Temporary Deputy Speaker, when a leaf of *sukuma wiki* cost one shilling - and this is a research I did over the weekend - it is not a laughing matter.

Madam Temporary Deputy Speaker, when a litre of Kerosene costs Kshs92, it is not a laughing matter. When a two kilogramme packet of *unga* costs more than Kshs100, it is not a laughing matter. When it costs ordinary Kenyans with a monthly earning of less than Kshs4,000 to pay Kshs100 to travel from Kayole to town, it is not a laughing matter. We must address issues that will bring the cost of living down. Otherwise, we as a country are staring implosion in the face and I can tell you that when social implosion happens, none of us is safe. It is as simple as that.

As a House, therefore, it is incumbent upon us to talk of ways to make life affordable to the majority of Kenyans who are about 20 million people or more. I have said it before; when on 26th November, 2008, standing up again on a Motion for Adjournment to talk about the prices of basic foodstuffs on the other side of the House, I said it that the only way to guarantee permanent and long lasting safety for all of us who are very privileged in the society is to provide for those of us who are not as equally

privileged. That is why when we come here, none of us can say that they are beyond fault. We have all made mistakes. We are in the situation that we are in today primarily because the price of fuel has gone beyond control. These are measures that we know.

Madam Temporary Deputy Speaker, the Minister will remember that we engaged him in our Committee, through the Chair, on line one expansion between Mombasa and Nairobi, and at the time we engaged him, I told the Minister to his face that some of the admissions that have been made by the engineers - I say it on authority as a registered consulting engineer in this country - that some of the so called engineers were atrocious. I am glad you sent some of them packing. I am glad you fired them.

We listened to engineers saying that they undertook a project of Kshs7 billion without drawings and without engineers' estimates. I told the Minister that these people are a shame to the profession of engineering. The Minister should have taken the next step. This country is crying for economic saboteurs to be taken to court and jailed, and you should have started with that process. Why do we say this? The purpose of line one expansion was to increase efficiency in fuel flow, to increase availability, to stabilize availability and to stabilize the market. These are not matters that we are talking about when thinking about politics because they affect the lives of our people.

Madam Temporary Deputy Speaker, I also admit as a Kenyan who is concerned that the time has come now for us to look at the capital projects that we are undertaking in this country. Are they all essential? Could we shelve some for the time being? I know the next point that I am going to talk about is controversial but I have to say it. In times such as this, what is the justification for the bloated Cabinet in this country? I am saying this, addressing; what was the purpose of the bloated Cabinet. The purpose was to bring discipline in the Government so that it can work together. I want to address my ODM side of the Cabinet. You are a shame to us as ODM. I want to say it with peace. There is no point in calling the national flag a piece of cloth and you do not have the discipline to resign.

With those few remarks, I second.

(Question proposed)

Mr. Mureithi: Madam Temporary Deputy Speaker, thank you for giving me the opportunity to debate on a very important Motion. Since we live in the rural areas and we want to accept that the ordinary person is really going through a very difficult time, I would like to say that this must be taken in a holistic way without looking at it from any point of political side. All of us must admit that there is a problem in this country.

What I am going to say is what we are experiencing in the horticultural industry. There is something that we call the value chain. You can take the value chain from what Mr. Namwamba was talking about or you can take it from any angle. When you have the value chain, there is the producer, like the way we produce potatoes in Nyandarua and then our bag of potatoes worth Kshs270 kilogrammes is bought at Kshs200 by middlemen. It goes to the manufacturer where it is processed. The same manufacturer is the same one who distributes it and at the same time retails it. Therefore, two persons; the producer and the consumer, get the brand part of our commodities. Therefore, I would like to say that since we have an inter-ministerial committee that looks at the food security and which is chaired by none other than the Rt. Hon. Prime Minister whom we

respect, why can they not come together and relook at what is bedeviling our people because we are dealing with a time bomb?

Madam Temporary Deputy Speaker, when you go to the rural areas, you will find that people are going without food. There are people like the Internally Displaced Persons (IDPs) who are also going without food. This inter-Ministerial committee that deals with food security must address that issue. In the early 1960s and a bit of 1970s, there was a policy that actually broke this value chain such that all these Ministries like the Ministry of Energy, Ministry of Industrialization, Ministry of Labour, Ministry of Agriculture and all the production Ministries were not allowed to sell their produce to manufacturers. The manufacturers were not allowed to go and distribute the same food. Then the distributor was not allowed to retail. So long as we allow the producer and the consumer at the expense of a certain group in the middle, there is no way we are going to break that chain. That chain must be broken.

Madam Temporary Deputy Speaker, we are happy that we have seen some movement in the Government where recently, kerosene cost has been reduced by 30 per cent and diesel has been reduced by 20 per cent. But we need more so that the cost of production in terms of a unit comes down. So, we cannot hide our face in the sand because so long as the consumer down there cannot afford his own livelihood, then we are in trouble. We should have a concerted effort across the political divide without putting blame on one side. We should sit down and reason together and find the way to go. I still prescribe to the issue of relooking at those old policies. There are Ministers who were there at that time who knew that the Government did not allow manufacturers to do distribution and retailing. After selling or buying a bag of potatoes at Kshs200, one packet of crisps costs about Kshs100? This means that there is disconnect between production, manufacturing, distribution, retailing and the consumer prices.

Madam Temporary Deputy Speaker, let our Right Hon. Prime Minister come here and give us a Statement to tell us which way forward. He should tell us the food position to be taken in order to cushion the consumer. Otherwise, none of us here is very safe when the consumer sleeps without food. This is because a hungry man is an angry man or an angry woman.

I beg to support.

Mr. Ochieng: Madam Temporary Deputy Speaker, indeed, it is a sad day for this nation when we are here to debate the skyrocketing prices of essential goods and food. What has sparked all this, are the fuel prices. If you really want to go deeper into the whole issue of fuel and oil in this country, you should start when Mr. Biwott was the Minister for Energy. You should start asking what happened to the oil that was donated by the Kuwait Government to this country. Where did it go? Was it what was used to open Kenol/Kobil Petrol Stations in this country? It was a lot of tonnes of oil which were meant to reduce prices of fuel at that time.

Secondly---

Mr. Lang'at: On a point of order, Madam Temporary Deputy Speaker. You heard the hon. Member mention a private company in bad light. This company is not able to defend itself in this House. He needs to either substantiate or withdraw.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Member, can you substantiate or withdraw?

Mr. Ochieng: Madam Temporary Deputy Speaker, the person I have mentioned is no longer a Member of Parliament. Therefore, I do not need to withdraw or substantiate. I think I am within my legal right to---

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Madam Temporary Deputy Speaker. The hon. Member has stated very clearly that the Kuwait Government donated loads and loads of oil to this country. Can he say how much it was, when, what was it worth and where---

Mr. Ochieng': Madam Temporary Deputy Speaker---

The Minister for Nairobi Metropolitan Development (Mr. Githae): Madam Temporary Deputy Speaker, can he substantiate or withdraw?

Mr. Ochieng: Madam Temporary Deputy Speaker, those who are in doubt can go to the HANSARD. I think this is an issue that was even debated in this House. They can go and check. The record is there and it speaks for itself. I do not need to go and bring it to them.

(Applause)

The Temporary Deputy Speaker (Dr. Laboso): Okay, continue if this is information that is already available to the House.

Mr. Ochieng: Madam Temporary Deputy Speaker, what has stopped the Ministry of Energy ever since from constructing a national fuel reserve? We need to have that. This would be where fuel can be stocked for a while as they deal with the issues of prices. The people in charge of that particular docket are taking advantage of the situation to bring fuel up to Mombasa in ships; they dock there for several days, because there is no space for offloading of fuel.

Mr. Muriithi: On a point of order, Madam Temporary Deputy Speaker. I seek your guidance; a few minutes ago you ruled that you would look into the question of the information that was contained in a computer. A hon. Member is on the Floor, and is saying the information he is referring to is available in the HANSARD or in some other place. Is the whole point of asking Members to substantiate and table documents not for the Chair to verify them, first of all their authenticity, so that we do not debate information that may or may not be admissible in this House?

Madam Temporary Deputy if we continue with this trend where somebody can stand up and say information is available in the library, or information is available--- Give us your guidance on this point.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Muriithi, your point is made! I believe that if the information is available in the HANSARD, I do not think that it is anywhere else!

(Applause)

Mr. Ochieng: Madam Temporary Deputy Speaker, please, protect me because I think my time is being taken by lazy people, who cannot go and refer to---

Madam Temporary Deputy Speaker, I want to ask the Government to set up a national reserve in which oil can be imported and stored as the prices are checked. This should be done with immediate effect. This is what will reduce the price of oil which keeps on skyrocketing.

Our refinery down there is rotten. The pilferages that occur there are always charged to the consumers. That is why the prices cannot go down. With this trend, we will not be able to tame the prices.

On the prices of essential goods, I want to agree with Mr. Mureithi, who has said that the people who manufacture food products are the ones who do wholesale business in some cases. They also have shops to retail the same products. So, they profit almost three times. The Government should also have proper policies, so that when you manufacture, you do not do wholesale business or retail. This way, the prices can be tamed.

With those few remarks, I beg to support.

The Assistant Minister for Roads (Mr. Kinyanjui): Thank you, Madam Temporary Deputy Speaker, for granting me the opportunity to participate in this very useful debate. Allow me to say that I am very disappointed. It has been the case in this country and we know, as politicians, when we go to any funeral, the first thing is to hijack the funeral, take charge and it becomes a political gathering.

Today in Kenya, families are going hungry. Children are going to sleep without food. As the schools open next term, because food is a key component, especially in boarding schools, we expect the fees to go up. Kenyans will have to suffer.

Madam Temporary Deputy Speaker, in the Ministry where I serve, we all know that petroleum is a key component in the contract sums that we agree on. When the fuel cost goes up, we expect that the cost of all the contracts that we give will go up. Kenyans will have to cough more money. I am, therefore, saying that, as Members of Parliament, Kenyans expect solutions and not accusations.

Allow me to say that it is extremely important that we appreciate that the fuel crisis we are facing as a nation today is not only in Kenya. We have a similar problem in Tanzania, Uganda and all over the world. The cause of the increase in fuel prices is the crisis we have in the Arab world. This is not within the province of the Government, or the Minister for Energy. The area where the Minister, or the Government, can do something is from the point at which the oil gets to Kenya. I want to thank the Member for Rarieda for highlighting the issue of storage in Kenya. Most of the time, we have fuel arriving at the port in Mombasa and a ship stays for up to two weeks without offloading because of lack of storage. The effect is that we have to pay the demurrage and the same is passed on to the consumers by way of added cost.

Madam Temporary Deputy Speaker, as a country, we must agree to make long-term sacrifices, so that we can be able to address the issue of fuel. We should purchase it when the prices are low and when the prices go up, we will not be required to purchase anything.

As we speak now, Kenya is a leading manufacturer in East and Central Africa. Oil or energy for that particular matter is a key component as a factor of production. Our commodities will not be able to sell both in the local and regional markets when the prices go up.

Madam Temporary Deputy Speaker, we have spoken, time and again, of the need to invest in other forms of energy; renewable energy and green energy. It must be remembered that within the Office of the Prime Minister, a specific office was set up to co-ordinate efforts in this particular direction. As a nation, we need to show greater efforts in coming up with alternative energy as opposed to over-dependence on

petroleum. Countries that are over-dependent on petroleum all over the world, including the United States of America, go through the same problems that we are going through today. I think it is important, because we have sang throughout the year that we explore all these possibilities with a view to ensuring that we have long-term solutions and take advantage of what is there---

Lastly, allow me to say that some of the issues that have been mentioned here, including the formula of the price that the Ministry has come up with which has been guiding the cost of fuel for three or so months---- However, it is unfortunate that as soon as the formula was put in force, the international cost of fuels immediately started going up. Therefore, Kenyans haven't had the benefit of getting to realise the value or, at least, the importance of this formula. However, within that formula, we have included the inefficiencies within the system as part of it and conveniently sold the same inefficiencies or passed them on to the consumer and, thereby, increasing the total cost or the price of fuel at the pump level. This must be looked into---

(Several hon. Members stood up in their places)

Madam Temporary Deputy Speaker, I am still on my feet!

Hon. Members: Your time is over!

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

Mr. C. Kilonzo: Thank you, Madam Temporary Deputy Speaker. One of the most interesting aspects about this Government is that when Parliament and especially the Back Bench tries to query the Government or to ask the Government what it is doing, the Executive or the Government joins in lamenting.

(Applause)

Madam Temporary Deputy Speaker, they lament that ooh, do this or you should have done that. This is a Government which has no idea on how to solve any problem. I want to give you an example. On the Floor of this House, Ministers are asked simple Questions on who owns Grand Regency and they say that they do not know. When they are asked who brought the illegal gold into this country, they say that they do not know. They were asked today who exported ivory to Thailand and they said they do not know. When they were asked about drugs, they said they do not know. When they were asked about pyramid schemes---

Hon. Members: They said they do not know!

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, when they were asked on the Floor of this House what names were forwarded to the Attorney-General for prosecution, they said that they do not know. So, how do you expect them to know how to solve the issue of prices of food?

(Applause)

If they were to be asked that question, they will also say they do not know. So, this Government, going by what I have said, it is very obvious---

(Loud consultations)

The Temporary Deputy Speaker (Dr. Laboso): Order, hon. Members! Please, consult silently so that we can, at least, hear what the hon. Member is saying or is contributing!

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, going by what I have said; that is about the policy of “We do not know,” if you ask them how they will reduce the price of *unga*, they will tell you: “We do not know!”

(Laughter)

I think we need, as a Government, as a country or even as a Parliament, to set up a particular area within Parliament the same way the British have done within their Parliament to allow demonstrators to come and demonstrate, because we will continue to get these answers of “we do not know” perpetually. The people who are failing the two principles – the Head of State and the Prime Minister – are none other than their Ministers!

Hon. Members: Yes! *Toboa!*

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, is it not common economics that when the supply is more than the demand, the prices go down? It is a simple theory as that. If you ask them the amount of money they have allocated to irrigation and the amount they have allocated towards the importation of maize, you will find that they had allocated “zero point zero percent” for irrigation and 99 per cent for importing maize to go and benefit a farmer in South Africa. This tells you very clearly that they have no idea on how to bring down the prices!

Madam Temporary Deputy Speaker, the only place this Government knows it can collect taxes is from fuel. Why is it so? A majority of them are landlords who own massive properties and do not pay taxes. The issue of landlords not paying taxes is a big issue.

Hon. Members: Yes!

(Applause)

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, this Government needs to look at other avenues where it can collect taxes and reduce the taxes on fuel. If you are selling a litre of kerosene at Kshs90, do you not know that there will be no forest within a very short time? Obviously, they do not know because their policy is; “they do not know”.

Madam Temporary Deputy Speaker, I visited my constituency yesterday and I was lectured by women in the village. They asked me whether this Government does not understand that they, the people in the village do not have food but obviously, the Government does not know. However, since I was elected to come and tell them, I realized, may be, nobody told them that they do not know. All we are asking this Government is that they should not come and lament here. When you stand here to contribute on this Motion, tell us what you are doing to address the issue!

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Madam Temporary Deputy Speaker. Is Mr. C. Kilonzo in order to mislead this House that the Government does not know and it is only yesterday when the Deputy Prime Minister and Minister for Finance reduced taxes on paraffin and diesel? That shows knowledge and not; "I do not know".

(Applause)

Could he withdraw and apologise?

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, obviously, he does not know how much was increased and how much was reduced.

(Laughter)

Madam Temporary Deputy Speaker, what is the biggest achievement of this Grand Coalition Government? This House is not supposed to spend time talking about prices, because if the Government knew, this Motion would not be here in the first place. This House should not spend a lot of time---

The Temporary Deputy Speaker (Dr. Laboso): Order, Mr. C. Kilonzo! Your time is up!

Proceed, Dr. Machage!

Hon. Members: He does not know!

Dr. Machage: Bi Naibu Spika wa Muda, si mzaha kuongea juu ya Hoja hii kwa sababu ni jambo ambalo linahusu binadamu, wananchi wazalendo na shida walizonazo mashinani. Hata Wabunge walio katika Jumba hili, kuna wenyewe mali na wengine hawana. Pia, wao wanausikia uzito huu.

(Applause)

Kwa hivyo, tuweke akili zetu pamoja, ili tutatue tatizo hili. Ukweli ni kwamba bei na gharama ya kununua mafuta imeenda juu na hali ya maisha imekuwa ngumu. Ukweli ni kwamba Waziri alijaribu kupunguza bei ya mafuta jana kwa shilingi mbili na tunajua jambo hili. Lakini ukweli ni kwamba ni sisi wenyewe katika Bunge hili tuliweka sheria za kutoa ushuru wakati wa kuongea juu ya makadirio ya fedha za Serikali. Makosa ni yetu wote katika Jumba hili. Wengine wasijifanye kwamba hawakufanya hilo kosa. Kwa hivyo, lililoko ni sisi wenyewe tukae, tutafakari na tuiangalie Bajeti tuliyoipitisha. Je, Bajeti tuliyoipitisha na nguvu tulizompa Waziri wa Fedha zinafaa katika mazingira ambayo tumejipata wakati huu au inabidi kwamba sisi tugeuze sheria za kutoza ushuru kusudi mwananchi asiumie? Hii ni kwa sababu Waziri wa Fedha ana uwezo kidogo ambao anaweza kupunguza gharama ya mambo. Sisi ndio tunao huo uwezo na tusije tukajifanya.

Mr. Ogindo: On a point of order, Madam Temporary Deputy Speaker. Is the hon. Member in order to mislead this House that the cause of the high fuel prices is the taxes, while the taxes were increased three years ago? Ever since, the price of fuel has more than doubled without further increase in taxes? Is he in order?

Hon. Members: He does not know!

Dr. Machage: Bi Naibu Spika wa Muda, mimi najua vizuri sana. Ushuru wa juu wa mafuta unatumika kujenga barabara zetu. Mhe. Mbunge, ajiulize ni asilimia ngapi ya ushuru huo unaotumika kujenga barabara zetu.

Mr. Mbadi: On a point of order, Madam Temporary Deputy Speaker. The hon. Machage cannot be let to get away with a very serious allegation. The tax rate has never increased in this country for quite sometime but the cost of fuel has doubled within two months. That is the question. So, is it in order to mislead the Republic that the cause is increase in tax?

Dr. Machage: Bi. Naibu Spika Wa Muda, asemayo mhe. Mbunge ni kweli. Lakini gharama ya kununua mafuta kutoka nje imepanda maradufu. Kwa nini sisi hatutaki kutumia kawi inayotokana na makaa. Nchi hii ina tani nyingi za makaa ya mawe ambayo yanaweza kutumika katika viwanda vyetu na kadhalika, badala ya kutumia mafuta. Ni kweli katika Bunge hili, kuna makabaila na mabaradhuli. Watu hawa hawajali maslahi ya wananchi. Watu hawa wanapatikana pande zote za Bunge hili; PNU au ODM. Watu hawa wanajulikana.

Ni heri tujaribu kuwasaidia wananchi wetu, hasa wale wamekosa chakula. Ni lazima kama Bunge hili kutafakari mbinu maalum za kuweza kuwasaidia watu wetu. Lawama hazitasaidia wananchi wetu kupata unga na baadhi nyingi za kimsingi. Ni lazima tupate suluhu ya janga hili.

Mhe. Mbunge amependekeza pesa ziongezwe kwa minajili ya kununua mbegu ili wakulima waweze kupanda, ili tuepukane na njaa siku zijazo.

Jambo la pili ni kuhusu ukosefu wa chakula hapa nchi. Wananchi wa sehemu yangu wana chakula za kutosha. Maghala yetu yimejaa mahindi. Kwa hivyo, ningependa Serikali itenge pesa za kutosha za kuweza kununua mahindi kutoka kwa watu wetu. Wakati huu, bei ya chakula ni ghali sana. Iwapo Serikali itanunua mahindi yetu kwa bei nafuu, basi hali ya maisha itaenda chini. Haifai Serikali kuagiza chakula kutoka nje kwa bei ya juu.

Tunataka suluhisho ya janga hili ambalo limeikumba nchi yetu, wala hatutaki viongozi kulaumiana hapa na pale. Si jambo nzuri kusema fulani ameiba hapa na pale bila kutoa suluhu ya shida yetu. Sawa wameiba, lakini sasa kuna shida katika nchi hii. Taabu si kwamba mifereji ya mafuta ni midogo, au magala yetu ni madogo na kadhalika. Tabu ni kuwa wafuta tunayoyanunua kutoka nje si mengi. Je, tutapata wapi pesa ili gharama ya maisha iende chini? Je, ni wapi tunaweza kupata mafuta ya bei nafuu? Haya ndiyo maswali ambayo tunahitaji kuyajibu katika Bunge hili.

Kutoka Mji wa Kehancha hadi Mji wa Migori ni kilomita 28. Lakini watu wetu wanalipa nauli ya Kshs400.

The Temporary Deputy Speaker (Dr. Laboso): Your time is up, Dr. Machage!

The honourable Party Leader of NARC-K.

Ms. Karua: Thank you, Madam Temporary Deputy Speaker, for recognizing the only opposition party in Parliament.

I rise in support of this Motion. I want to salute my colleagues who moved and seconded this Motion. Parliament cannot be blamed at whatsoever, either for failure to pass policies or laws. We have passed a law known as the Energy Act. If you go to a certain Section of this Act, we have a body known as the Energy Regulatory Commission (ERC). Its work among other things is to protect interest of consumers, investor and

stakeholder interests. So, we have already passed laws. However, this particular regulator who is paid from Exchequer funds is protecting cartels, instead of protecting consumers.

(Applause)

It is not balancing the interest of the consumer. Why should we have a regulator who cannot do the job? Who should know whether the regulator is working? Is there a Minister for Energy? Then, it is the Minister who must know. Does anybody know whether there is a Minister for Energy?

The Minister for Energy (Mr. Murungi): On a point of order, Madam Temporary Deputy Speaker. The manner in which the hon. Member is starting her contribution is offensive and provocative. Is the hon. Member in order to say that the ERC, which she correctly says is supposed to protect the interest of consumers, investors and other stakeholders--- Is she in order to say that it is protecting the interest of cartels? Could she substantiate which cartels this ERC is protecting and in what manner?

Secondly, the hon. Member does not seem to recognize that there is a Minister for Energy in this House. Could she apologise and withdraw for not recognizing that there is a Minister for Energy in this House?

Ms. Karua: Madam Temporary Deputy Speaker, in English Language, there is such a thing as a rhetorical question. Apparently, it is not well understood. That was a rhetorical question, I posed. It is like asking: Who is minding this area? Is there somebody minding this area?

Madam Temporary Deputy Speaker, obviously, there is a gap because there is an energy Minister. How come the Energy Minister has not noticed that the regulator is not performing its job? That is precisely why there is that docket. I will now pose another rhetorical question: Why is there an ERC and a Minister and yet the consumers are complaining? Why on earth are they earning the taxpayers money without doing the job?

Madam Temporary Deputy Speaker, we have been told that yesterday, the Deputy Prime Minister and Minister for Finance lowered the cost of kerosene by Kshs2. He lowered it by Kshs2, after an addition of Kshs9 or Kshs13 shillings? If he could lower Kshs2 just like that--- Is it that they did not do their calculations well, and they could now slash the profit? This is proof of the games being played in the energy sector. Games at the expense of the common man! Is it that the Government did not know that when they raised the cost of fuel they were going to cause a ripple effect, which would affect foodstuff, transport and, in a nutshell, the cost of living? Is it that those who are comfortable are laughing at the poor? What is that we are doing? I want to say that you would expect a serious Government would consider and weigh all the factors before announcing fuel prices, especially an increase.

Madam Temporary Deputy Speaker, I want to reiterate what has been said. The problem in this sector is corruption and inefficiency. We know of the Triton scandal. To date, we have not heard of the recovery of any money, or any court case being concluded, specially the big fish. If such a scandal---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, seeing the interest in this Motion, could we concur to reduce the time each Member is contributing?

Hon. Members: No! No!

The Temporary Deputy Speaker (Dr. Laboso): Then we will continue with the five minutes.

Yes, hon. Chief whip.

An hon. Member: Which Chief Whip?

The Temporary Deputy Speaker (Dr. Laboso): There is only one in the House, I believe!

Mr. Midiwo: In any case, the other one is an Acting Chief Whip!

Madam Temporary Deputy Speaker, the day ERC increased the upper limit for fuel, two days, before that, the international crude prices had gone down.

Madam Temporary Deputy Speaker, why was the ERC increasing the upper limit of fuel prices? Let me put it to the House that it was to clean up the mess into which this country has been plunged by the National Oil Corporation (NOC). Sometime in January/February, NOC was given authority to import crude oil, but the Corporation did not have the capacity to import crude oil. Therefore, they under-quoted and when their crude oil consignment got into the country, they attempted to increase the prices. All the marketing players in the oil industry refused to deal with NOC.

The National Oil Corporation is purporting to import oil using some cartels---

The Minister for Energy (Mr. Murungi): On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Minister, allow him to continue!

The Minister for Energy (Mr. Murungi): No, he is telling lies!

Mr. Midiwo: Madam Temporary Deputy Speaker, I am not telling lies. If I were lying, I would not be holding this document, which is from the Oil Industry Supply Co-ordination Committee. A letter to the Minister---

The Minister for Energy (Mr. Murungi): On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Dr. Laboso): Order! Order! Allow him!

The Minister for Energy (Mr. Murungi): Madam Temporary Deputy Speaker, is he allowing me or am I allowing him?

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, Minister!

The Minister for Energy (Mr. Murungi): Madam Temporary Deputy Speaker, could the hon. Member substantiate the statement that the Government has given the NOC a lot of money to import oil into this country? That is something which we have not done. Could he substantiate as to when and how much money the Government has given the NOC? As the Minister for Energy, I am aware that there is no money that the Government has given the NOC for importation of crude oil.

Mr. Midiwo: Madam Temporary Deputy Speaker, the matter we are discussing is of such great national importance. Minister, you were defending yourself on issues of corruption the other day. Simply know that corruption exists in your Ministry.

(Loud consultations)

The Temporary Deputy Speaker (Dr. Laboso): Order! Order! Hon. Members, the level of consultation is too high in the House. Please, let us listen to the contribution of each hon. Member.

Mr. George Nyamweya: On a point of order, Madam Temporary Deputy Speaker!

The Temporary Deputy Speaker (Dr. Laboso): Order! Allow him to continue!

Mr. Midiwo: Madam Temporary Deputy Speaker, the Minister must know that I am about to table a document. Somebody does not want me to table this document, but I am nonetheless going to table it. This document---

Mr. George Nyamweya: On a point of order!

The Temporary Deputy Speaker (Dr. Laboso): Allow the hon. Member to table the document.

Mr. George Nyamweya: On a point of order!

The Temporary Deputy Speaker (Dr. Laboso): What is your point of order, hon. Nyamweya?

Mr. George Nyamweya: Madam Temporary Deputy Speaker, my point of order is that there is an amazing development in this House, where the Minister is rising on a point of order to challenge the Chief Whip of the Government. Could we have some direction about the management of this Government?

Mr. Midiwo: Madam Temporary Deputy Speaker, this is not about the Government. I think there is a misconception. What we are talking about is affecting all Kenyans. I do not want to accuse the Government of anything. All I wanted is to advise the Minister.

The Gazette Notice that empowers the ERC to be increasing fuel prices seems to be hurting Kenyans more than it is helping them. I think the Minister can help us. His own Oil Industry Supply Co-ordination Committee has made recommendations, which the ERC has rejected for reasons known to them.

Mr. Temporary Deputy Speaker, I was saying that in February, this year, the NOC was given authority, and not money, to import crude oil, but NOC did not have the capacity to bring the crude oil into the country. When NOC finally brought the crude oil, they tried to sell it to other industry players at a higher price than what had been negotiated. That is where the problem is. What the ERC is trying to do is to clean up this mess, and we cannot accept that.

Since I have been interrupted so much, I am going to table this document, which elaborates on the steps that have been recommended to the Ministry in order to reduce---

The Temporary Deputy Speaker (Dr. Laboso): Your time is up, Mr. Midiwo!

Mr. Midiwo: Madam Temporary Deputy Speaker, I hereby table the document.

(Mr. Midiwo laid the document on the Table)

Mr. Lessonet: Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to contribute to this Motion.

It is true that the cost of living in this country has been impacted upon negatively by the rising fuel prices. I wish Kenya was that country where the Government, with all our experts, would have been able to predict this situation. As we have exchange reserves to last us four months, we should on the other hand have fuel reserves to last us even one

year, so that situations like the one that is prevailing do not arise. If we had such oil reserves in place, we would still be paying for fuel at the cost of last year.

*[The Temporary Deputy Speaker
(Dr. Laboso) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, this country can put in place measures to predict the environment we are operating in, so that even at this time, we could be able to predict what is likely to befall us in one year to come. That way, we would be able to cushion Kenyans. Every time fuel prices rise beyond a certain level, the Government would intervene and cushion us against price adjustments.

Apart from maintaining huge stocks of oil reserves to cushion us for one year, I want to believe that the Government can even encourage forward contracts. We can encourage players in the oil sector to buy oil today for use next year or in the next six months. That way, we can take care of sudden fluctuations in the prices of oil products, because we have become so susceptible to them.

Mr. Temporary Deputy Speaker, Sir, I would like to beseech the Government, even in terms of taxation. It has become very easy to collect fuel levy from the fuel sector. Excise Duty is amongst the easiest levies to collect from the fuel sector. Can the Government diversify into other areas of taxation? Are there sectors which are not being adequately taxed in this country, like the Capital and the property markets? Are we adequately taxing these sectors?

I am convinced that the Government can study the political situation in the world, because international politics sometimes impacts on us negatively. There are challenges like the situation in Libya, which I am very sure, we should have been able to detect more than a year ago. As a country, we should have been able to detect the situation in the Arab world last year. Upon such detection, we should have been able to buy our fuel last year.

Mr. Temporary Deputy Speaker, Sir, yesterday, the Deputy Prime Minister and Minister for Finance made some adjustments in Excise Duty, but I wish he could have taken an extra step to make adjustments even in the Fuel Levy. For instance, if he had zero-rated the Fuel Levy on diesel, it would have resulted in a price reduction of not less than Kshs15 per litre of diesel. The adjustment on Excise Duty is going to reduce the price of diesel by Kshs2 or less and, at the end of the day, nobody is going to celebrate that reduction.

So, this Government should be able to stand up to this kind of situation. We should probably be more proactive than we are now.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Livestock Development (Mr. Duale): Thank you, Mr. Temporary Deputy Speaker, Sir. First, I want to confirm here that I am the Assistant Minister for Livestock Development and I am not what hon. C. Kilonzo described, that they do not know. Maybe, that is one of the characteristic of a Grand Coalition Government that we have. I want to state very categorically that we are here to discuss a

national issue. As leaders in this country, we need to ventilate and look at the remedies. What can we offer as national leaders? This is going to affect the fabric of our economic independence and the stability of our nation.

The key issues that we need to look at are the effects of drought on the agricultural sector that has about Kshs700 billion and contributes about 24 per cent of our national economy. It employs 45 per cent of our rural population. We need to look at the escalating international fuel prices. What is there for the Government? As a country, why are we lacking a policy of national fuel reserves that can last for three months? Countries have done it. The same problem that we are facing today, the US Government faced it two or three years ago. We need, as a country, to have a policy. The Minister for Energy, the Prime Minister, the President and the Cabinet have a sole responsibility to create national food and fuel reserves for 90 days. As a country and as the leadership, we need to look at why the escalating prices affect the transport sector. As I speak, the busfare from Nairobi to Eldoret has gone up from Kshs400 to Kshs700. If you look at our transport or our manufacturing sectors, Kenya is the leader in the East African Community. Is there a way in which we can diversify our energy sector, namely, our source of energy as a country?

The World Bank, in its latest report, and I want to quote it, has warned countries that the rising food prices, driven partly by the rising fuel cost, is going to push millions of people into extreme poverty. That is the latest report.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, there are loud consultations. I want Members to give me their ears.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, I am listening.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, as the leadership and as some Members have said, I am sure that the Members of the Departmental Committee on Energy, Communication and Information do not know anything about their constituencies. As leaders, we should not bring party and ethnic politics to this House. When we bring a matter of national importance to this House and somebody from the other side whose face you do not want to see because he comes from another region stands up to contribute, you should not lose focus.

Kenyans are watching us. They want us to offer a solution tomorrow. The Deputy Prime Minister and the Minister for Finance, in his wisdom, under the law, has done what he did yesterday by reducing Excise Duty on kerosene and diesel by 30 per cent and 20 per cent respectively. Parliament, as a legislative organ, what else can we offer the Government in terms of changing laws and bringing up policies? We want Members to formulate more laws. The Deputy Prime Minister and Minister for Finance, in his wisdom, did what the law offered him. When somebody comes here and says that somebody called the national flag a piece of cloth, that is not the issue that we are discussing today. You are being very parochial, petty and an ethnic chauvinist.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the hon. Member say that Members are being petty. That is unparliamentary language. Is he in order to call Members petty?

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Duale, you know what to do!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, that is my opinion and I think there is no other word. If I continue---

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Duale! You know what to do, hon. Duale! Proceed and do the right thing.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I withdraw conditionally.

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Duale!

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I withdraw and apologize! Kenyans out there heard me. You do not walk into the National Assembly to discuss an important debate of this nature when you carry the extra baggage of ethnicity and political party chauvinism. Why do you blame the Minister for Energy when there is a co-ordinator and supervisor of the Government? Where is he? Where is the co-ordinator and supervisor of the Government? That is the issue that we need to discuss. Where is the President of this country?

Mrs. Shebesh: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion. Let us just be clear that there are issues that have been raised by Members of Parliament, who are not petty, and they will continue to raise these issues, that the Government must respond to. There is no way the Minister is going to run away from the issue of National Oil Corporation of Kenya (NOCK). There is no way he is going to tell us that what is happening in the Arab world is the reason why we have high fuel prices.

We are technologically savvy, as you can see. We go to the internet and also read reports between the Government agencies and we know that the problem in NOCK is about corruption and inefficiency. That is an issue that will not---

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the cause of high fuel prices is the NOCK? Do we have NOCK in Uganda or Tanzania, who are having the same problem? So, do not mislead this House.

The Temporary Deputy Speaker (Prof. Kaloki): Order, Minister! What is the point of order?

The Minister for Nairobi Metropolitan Development (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, she is misleading this House that the cause of high fuel prices is corruption in NOCK. I am asking whether we have NOCK in Uganda and Tanzania, who have the same problem. This is misleading!

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, hon. Shebesh!

Mrs. Shebesh: Thank you, Mr. Temporary Deputy Speaker, Sir. I believe there is no point of order there for me to respond to. The reason why you are seeing some frustration on the side of the Government is because of this "I do not know" policy, that they have to address. If you are not aware that NOCK is in Kenya and today our Motion is about Kenya, I have no idea how I can address that.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, with your contribution!

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, another issue that the Ministry and the Government will have to talk to us about is in terms of the tax reduction that was done yesterday. We have seen many Cabinet crisis meetings being called whenever there are crisis that always have to do with the Coalition Government and how to share power. If it is about the Chief Justice or the International Criminal Court (ICC), Cabinet crisis meetings will be called. Why has the Cabinet not called a crisis meeting to discuss this issue of national importance?

It is obvious that we have lost touch with the Kenyan people. What we have seen today is a tip of the iceberg about how Kenyans are annoyed. I can tell you that grand standing will not help us. True solutions to this issue must be found. The solution is simple, namely, let us tame the issue of corruption within the Ministry of Energy and the cartels in the energy sector. Let us not run away from that problem of corruption.

With that, I want to support the Motion.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to contribute to this debate. I wish to thank the Mover, hon. Namwamba, for having brought us together to ventilate on this matter. As a House, we are oversimplifying the matter. There is a crisis out there. The prices of food have been going up. The cost of living is going up, but instead of looking at what we need to do as the policy makers, we have taken this opportunity to start name-calling and bringing issues that are secondary to the solution to this problem. We have high-jacked an otherwise well-intended Motion to start our partisan petty politics and name-calling instead of looking at the core issues.

Mr. Temporary Deputy Speaker, Sir, we are faced with a global problem. I would like to invite my fellow hon. Members who are technologically savvy like us, to look at the report that was issued by the World Bank, warning of a second global recession, that is coming on account of food prices going up on a global basis. We are seeing situations of food failure in Russia and China. We are also seeing changing patterns of food consumption in China, India and Brazil because of the change in their lifestyles. There is a global warning that food prices will continue going up. There is a real problem that the world is facing. The issues that we faced in 2008 will recur this year. However, instead of us sitting here as Kenyan policy makers and as the people who have been entrusted by our people to define their lives, we are busy---

Mr. Kiuna: On a point of order, Mr. Temporary Deputy Speaker, Sir. Why is the Minister misleading this House and the nation at large that there is a food crisis in our country and yet we know very well that in Rift Valley food is rotting in stores because the Government cannot afford to pay the farmers? This is the case and yet people are dying in northern Kenya? Is the Minister in order to mislead this House that we have food crisis in Kenya?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, if the hon. Member was listening to what I was saying, he would have known that I never talked about the issue of Rift Valley. I am giving the global problem before I come to the local issue.

I have said that we are faced with a global problem. In the first instance, we need to know that as Kenyan lawmakers and policy makers. We must, first of all, start addressing ourselves to what we will do when that comes to Kenya. We have a lot of maize in Kenya, but why has the price of *unga* gone up from Kshs78 to Kshs84? Is it

anything to do with the Government or corruption? What has one person selling maize to the other got to do with corruption in between? Why are we assuming that the Government has a role of buying maize and then distributing it for free to other people?

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, could I be saved from these frivolous---

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to stand there, having worked in this Government and knowing too well that this document has misallocated Kshs21 billion to the Ministry of Water and Irrigation which cannot do irrigation; and also knowing too well that this Government continues to license three millers to control 67 per cent of the milling industry--- Is the Minister in order to continue misleading this House?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I believe that on the issue of water, the Parliamentary Committee has declared a verdict and I need say no more.

Mr. Temporary Deputy Speaker, Sir, on the food prices, the point I want to make is that if we are not careful, we will start looking at issues here and talking as if nothing major is happening out there, and miss the issue of our people. I also want us to look at the contribution of fuel to the whole of his debate. If we will attribute all the issues to fuel alone, we are missing the point. There are issues of fertilizer, inefficiency and ourselves here agitating for higher producer prices. If you increase the producer price, obviously, the consumer price must go up. There is no way you will agitate for the Government to buy maize at Kshs2,400 and expect that the end consumer of the maize flour to be milled from that maize will pay anything less. How do you expect the miller, who is forced by the Government to buy maize at Kshs2,400, to subsidize the cost of *unga*?

Mr. Temporary Deputy Speaker, Sir, I beg to support the intention of the Motion and ask my colleagues to focus on the real issues.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Minister, Mrs. Odhiambo-Mabona.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir, for the prophesy that I am the Minister.

(Laughter)

I want to stand and support the hon. Member for bringing this Motion at a timely moment.

Mr. Temporary Deputy Speaker, Sir, we are, indeed, talking about Kenyan issues. The reason we are here as a House is because Kenyans are crying that the cost of living is too high. The cost of food, fuel and *unga* is too high and Kenyans are saying that they are hungry. The hon. Members who have spoken here have said that a hungry man is an angry man. Unless, as leaders, we actually take action to deal with this issue soberly and decisively, we will be the target. This is because when people are angry where they look to blame is on leadership. Unless, as Members of Parliament we deal with this issue seriously, we are in a problem and the buck stops with us as leaders.

Mr. Temporary Deputy Speaker, Sir, I want to remind one of the hon. Members who said that we are technologically savvy and yet we do not know what the World Bank

report said, that we have read it. We know from that World Bank report that the world food index has gone 36 per cent above what it was last year. That is globally, but in Kenya, I am sure that what Mr. C. Kilonzo has said is the truth, that they have no clue. We have to rely on the World Bank to tell us what is going on in China and Libya and yet we do to know what is going on at home. Because of that there are serious issues in this country that must be dealt with. When I first came to this country, we were talking about food security. Whether you want to attribute it to fuel or talk about it in relation to what, we were talking about food security. I would like to say that we cannot speak about food security year in, year out. We must deal with policy issues that are not correct, whether they are in the agricultural or energy sector. We must also deal with inequalities and corruption. It has been said before that you will know a dog's owner if you attack the dog. The moment you touch the dog of corruption, the owners stand up very vividly and angrily. We know them.

Mr. Temporary Deputy Speaker, Sir, I would like to say that there are two people who told me that when I am speaking about food security –because they saw that it was coming before the House – I raise the issue of another poor Government policy that is affecting the poor of the poorest. There are areas where people only eat *omena*.

The Assistant Minister for Higher Education, Science and Technology (Mr. Kamama): On a point of order, Mr. Temporary Deputy Speaker, Sir. My good friend, the Nominated Member for Orange Democratic Movement (ODM), Madam Odhiambo-Mabona, has just indicated that she knows some people who are corrupt or the dogs of corruption. Could she substantiate and name them here?

The Temporary Deputy Speaker (Prof. Kaloki): Mrs. Odhiambo-Mabona, are you prepared to come up with that list of corrupt individuals?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, I want to respond to it in two ways. First, I was an excellent student of Literature and from the literary term or art that I have used, I have not named anybody. Nonetheless, if you want me to supply the names, I will do so. Everybody in this country knows who is corrupt, but did not call anybody corrupt.

Mr. Temporary Deputy Speaker, Sir, I was speaking about *omena* issues. I was asked by Chief Michael Aganyo from Mfangano Island, somebody called “Japala” of Kamasengere West and Ochola of Homa Bay to come and raise the issues of *omena* in this House. We have cases where the Government has a policy---

The Assistant Minister for Industrialization (Mr. Muriithi): on a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is not about *omena*. But surely, you heard the hon. Member say she is able to substantiate the issue of corruption. I think it is only fair and in order not to offend the dignity of the House, for her to do so.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Mrs. Odhiambo-Mabona was using a general term not directed to a specific individual.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me. I can see the hon. Member does not want me to speak on *omena* issues. I will go back to the *omena* issues. There is a chief and several people who have sent text messages to me and told me that when we are speaking about this, we request the Government to deal with it. As I said, you tell the owner of the dog when you touch the dogs of corruption.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, I stand to support this very important Motion and thank the Mover for bringing this very important issue to the House.

We should be dwelling on the issues of how to mitigate the suffering of the citizens of this country. Sometimes I get surprised that we are bringing politics into an issue like this. You see, there is an issue which I need to coin a name for; whenever you see a Luo MP standing, a Kikuyu MP must stand up. So, there is Kikuyu/Luo animosity which we must not bring to this House.

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rose on a point of order and Mr. Kimunya is a Kikuyu. Is the hon. Member implying that I stood because I have Luo blood in me or what?

The Temporary Deputy Speaker (Prof. Kaloki): Maj-Gen. Nkaisserry, you had better not go there---

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): I will get out of that.

Mr. Temporary Deputy Speaker, Sir, I said I want to bring very substantive issues here. One, as a country which is a non-oil producer we must have a strategic policy---

The Assistant Minister for Public Works (Mr. Kiunjuri): On a point of order, Mr. Temporary Deputy Speaker, Sir. I really do not intend to interrupt my colleague. However, he has raised a very serious allegation and it borders on hate speech. According to our Standing Orders---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Kiunjuri!
Proceed Maj-Gen. Nkaisserry.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, we want to talk about this very important issue. This is the issue of our people suffering. Because we do not---

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker!

The Temporary Deputy Speaker (Prof. Kaloki): Proceed, Maj-Gen. Nkaisserry.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, you know any time I stand here people are afraid and the guilty are more afraid. As a non-oil producing nation we must have a policy so that we can cushion our people. If today Kenya were to go to war, without any strategic reserves, to defend our citizens, we would be a lost nation. I tend to agree with Mr. C. Kilonzo, and I belong to this Government, that if we had no plan to rescue our people, our people are hungry. They are suffering because the Government has no plan. Why do you increase oil by Kshs10 and you expect people to survive?

I commend the Deputy Prime Minister and Minister for Finance for what he did although the reduction was very minimal. Who is in charge of increasing this fuel? Is it not the Government? Who gives them authority? This is a problem of leadership.

I pray that this country should never have a Coalition Government because we are stuck. Nobody can make a decision. Our people from North Eastern Province are dying because of hunger. They are dying because of hunger and because of the high prices of food. They cannot afford to buy maize meal, paraffin and fuel. In fact, sooner than later, we will become a walking nation. I hope our people will not be arrested like it is happening somewhere else where people are being arrested because of walking to their places of work.

Mr. Temporary Deputy Speaker, Sir, the other very important thing is that when we come here as lawmakers we should leave politics aside. We should look at issues of national interest and critically address them. We do not have to bring politics in an issue like this. We need to say at the end of this debate, how much the Government will cushion the citizens of this country.

Mr. Temporary Deputy Speaker, Sir, I think that is the best way we can help this country. We cannot just debate and leave it hanging. This Parliament must pass that the Government will reduce so much for food and fuel. We cannot just sit here and debate and leave it hanging.

With those few remarks, I support.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, first of all, I want to say this, that even though the Government side has ably talked about the changes in the global market, what separates a good government from an ordinary government is the way it confronts the global challenges.

I want to tell you why Jonathan Goodluck has won the election in Nigeria. When he took over, the prices of fuel were too high. Right now, he has managed even with that global issue, to cut it down. So, if anyone wants to lead this country, that person must show us how they are able to face the challenges confronting the country.

Mr. Temporary Deputy Speaker, Sir, I want to ask the Minister to do the following: I would expect the Government to call a Cabinet meeting and discuss in general as a matter of priority the issue of rising cost of living in this country. I want to tell the Minister that the tax cut that we witnessed is not enough. It was only done on kerosene and diesel. Ask the Deputy Prime Minister and Minister for Finance to reduce the price for petrol. Besides that, ask the Central Bank of Kenya to rein in on the depreciating Kenya shilling.

I want to further go ahead and ask you to dissolve the Energy Regulatory Commission (ERC) immediately and constitute a more competent one that can efficiently run that sector. As a long term policy mechanism, this country should not over-rely on petroleum. Brazil has gone the soya way. USA is working on the corn. Why are we still over-relying on petroleum?

Having given you that, I want to challenge the Minister, please, do not resist the condemnation about corruption in your Ministry. Corruption is rife. Instead of spending time in his office, he spends it in court as a witness. For the first time in this country, I see a Minister going to court to be a witness in a case under his docket. It is serious. I want to tell him that since he came to this Ministry, we have witnessed a lot of problems. For example, the Triton issue and the pipeline enhancement project have been mentioned. These are matters of corruption. NOCK is given 30 per cent to supply petroleum in this country, yet it has no capacity to do so. This is corruption. If you cannot solve them, then resign and let somebody else who is competent run that Ministry.

The Minister for Energy (Mr. Murungi): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is very unfair to me. I am taking action on the issues of corruption and that is why I am appearing in court as a witness. It is one of the ways of fighting corruption. Is it in order for the hon. Member to be personal and make irrelevant comments?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Mbadi, your time is up!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, there is a point of order and I have to respond to it.

The Temporary Deputy Speaker (Prof. Kaloki): Carry on!

An hon. Member: Your time is up!

Mr. Mbadi: I have been told to carry on, so hold your horses. The reason why I was saying that there is corruption in his Ministry is because through Triton we lost---

The Temporary Deputy Speaker (Prof. Kaloki): Order! It seems you still have some time.

Proceed!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, this Minister must accept that under his watch this country lost money through Triton. He must accept that under his watch through the pipeline enhancement project, which Eng. Gumbo alluded to, we have lost a lot of money. He must accept that under his watch, the President and the Prime Minister were made to open a project that did not exist. He must accept that for the first time this country is paying over Kshs110 for one litre of petrol.

The Minister for Nairobi Metropolitan Development (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to be completely irrelevant? This debate is about a Motion for Adjournment to discuss the cost of living but he has turned it into a censure Motion for the Minister of Energy. Is he in order to be irrelevant?

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I think this Minister has just lost it. We are discussing why the price of fuel is high and we are telling the Minister that it is because of corruption. That is why I am citing cases of corruption.

The Minister for Agriculture (Dr. Kosgei): Mr. Temporary Deputy Speaker, Sir, let me support the Motion because it is important and in response to the problems that are there in the country. I have listened and I had hoped that we would have a lot of what I have heard from Dr. Machage, Mr. Mbadi and a few others on how to resolve the issue. It is not really going to help us if we use this platform as a mudslinging occasion. Let us take the case of food prices, and I am saying this because the Ministry of Agriculture is not responsible for food prices because we do not sell or distribute food. We are aware that food prices around the world have been rising for the last six months. I said so in all the agricultural shows for all Kenyans to know. I have said so in this House because by January we were aware that the prices of food had gone up by 40 per cent. So, Mr. C. Kilonzo is not right to say that we are not aware. We are aware about it and it is for all of us. You have heard Dr. Machage say that there is food in the country. At the moment, we have a paradox which all of us need to be aware of and hopefully have a solution because this country has a liberalized economy; we no longer control prices. A Price Control Bill came here but it did not go very far. In any event, as I am speaking to you, there is an effort for more maize to be imported into this country. I have said so many times here that this is not necessary because it kills any production that Kenyans might have. I have constantly, with the support of the Committee on Agriculture, Livestock and Co-operatives, called for more investments in agriculture because honestly we should not come here another five years from now and say that Kenyans cannot feed themselves. Obviously, what is happening now is a ripple down effect and people taking advantage of the fact that oil prices around the world have gone up, in total disregard of our local conditions. In any event, there is a sense that we see, because we check all the time, that

there is speculation. We cannot, as a Government, force somebody to sell maize. Therefore, the paradox is, how do we get the millers not to force the farmers to hold maize? That is what is going on and that is a fact. The maize is there.

I would like to support a few observations like that of Mr. Mbadi that what is it that we can do especially in addressing these issues? The Ministry of Agriculture is a production ministry and somewhere along the line we have to congratulate the Kenyan farmers.

I do not think that the crop we have now has suffered from any of the things that I am hearing around here, or any corruption of any sort in this last year. We have not imported any maize. However, if the farmers will not sell at the market price, I think the millers will import maize. To me, knowing the prices of commodities around the world, and I have said it in this House before, if it is imported it is going to be damn expensive. The consumers, who are the people we represent in this House, are going to suffer.

Mr. Temporary Deputy Speaker, Sir, I am not going to say that we cannot find a collective solution to this. We are working on it. I know the technocrats are doing something about getting the shilling to stabilize, because this is causing us a lot of trouble. Kenyans have produced the food, but they cannot sell it because now it is too expensive. Although some of my friends like my wonderful friend, the Member for Gichugu, do not want us to say that Parliament will pass certain laws, you must know that you gave us only Kshs100 million for irrigation in agriculture. Many of the areas we deal in cannot irrigate with that. We have to manage our agriculture. There are ten sectors in agriculture. They work very hard. We are under-resourced and we have managed to get quite a bit of support from outside. However, at the moment we have a very unique crisis, where we have food, yet we cannot get it on our tables at the right time. We need the support of the House.

I feel that somehow we have to come out, not to use the Floor of the House for broadside against other people, but to examine issues as a House. Ultimately, we represent all Kenyans. They are looking at us as whole House to see what we can do. What we can do in our offices, we are doing. If it is time for that kind of revelation, we shall give it.

Thank you.

Mr. Muriithi: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. It is very sad, indeed, because we have treated this country and---

Mr. Mututho: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is important.

Mr. Muriithi: We have downgraded the dignity of Kenyans by the way we have conducted ourselves. We have chosen to dwell on side shows instead of dealing with key issues and find solutions collectively.

Mr. Temporary Deputy Speaker, Sir, we have given direction on issues of laptops and so on; I hope that the prices of those laptops, as compared, for example, to the price of *unga* will feature in your direction.

The actions of the Government in the last several days have been good. If what the hon. Members are saying is that we can do more, I will agree. The reason we are here is to put our heads together and do more. If the issue that hon. Members are raising is, for example, what we can do overall to move out of dependence on petrol, I will agree. It is not the first time in history that the world and this country in particular, is receiving a hit

from prices of fuel. If you go back to 1974/75 the huge crisis in production, the reason why this country's economy went into recession was because of rise in fuel prices globally. At that time, our economy was not liberalized. It was a controlled economy; therefore, to argue here that we are in a crisis simply because of the issue of liberalization is not correct.

I would agree with the Secunder of the Motion, that perhaps it is time to relook at the size of the Government. However, this is not the only answer to this issue. The cost of production is not simply just a result of the fact that we have a large Government. The cost of production is an international phenomenon.

I had hoped to hear hon. Members, as they tried to castigate the Government, offering to take salary reduction, so that we can reduce the cost of Government and pass on the savings to Kenyans, who so deserve it.

Mr. Temporary Deputy Speaker, Sir, as they castigate the Government---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the hon. Member challenge other hon. Members to come forward and ask for salary deduction as if he is not an hon. Member of Parliament. Could he go ahead and make that offer and if possible resign from the Ministry so that we can pay a fewer Assistant Ministers?

The Temporary Deputy Speaker (Prof. Kaloki): Very well!

The Assistant Minister for Industrialization (Mr. Muriithi): Thank you, Mr. Temporary Deputy Speaker, Sir. I was actually not aware that the purpose of points of order is for hon. Members to engage in debate.

I beg to support.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Prof. Kaloki): We have no time hon. Members. Mr. ole Ntimama, I will give you only one minute because the Minister has responds!

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): We have ten minutes!

An hon. Member: He has not responded!

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute, although I have been standing. I am seated in a corner and maybe you were not able to see me.

The Temporary Deputy Speaker (Prof. Kaloki): I am seeing you.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, the truth of the matter is that the problem of hunger, hungry people and angry people is with us. We cannot avoid a situation where we are directly concerned. We should try to solve the problem now.

Mr. Temporary Deputy Speaker, Sir, yesterday I watched the Deputy Prime Minister and Minister for Finance say that the price of diesel and kerosene has reduced but that did not impress the *mwananchi*. What he should have said is that the price of *unga* has reduced by this much; what he should have said is that the price of sugar or the

price of rice has reduced by this much. We know petrol affects everything. We must sort out that now.

I do not want this situation of people saying “substantiate corruption”. There is corruption in every sector of the economy in this country. It has really done a lot of damage!

(Applause)

Even on the question of food and maize distribution, stealing is corruption!

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you!

Yes, Mr. Murungi!

The Minister for Energy (Mr. Murungi): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to make a few comments. I have listened to hon. Members and, indeed, we are painfully aware of the hardships that our people are going through because of the high petroleum prices and consequent consumer prices, including transport costs and high food prices.

We are not just here to ask questions. We are leaders of this country in our own right as hon. Members of Parliament and I would have wanted to hear more on the solutions or the suggestions which the Government can take on board as we address this issue.

Mr. Temporary Deputy Speaker, Sir, I think we cannot run away from the basic fact that---

Mr. Ogindo: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Minister for Energy (Mr. Murungi): I do not need any information, Mr. Temporary Deputy Speaker, Sir. I think we are painfully aware that the primary causes of the escalation in fuel prices in this country---

Mr. Ogindo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I ran out of time and I had solutions that I wanted to share with the Minister---

The Temporary Deputy Speaker (Prof. Kaloki): Order! Mr. Ogindo, you have stood on a point of order. That is not fair to all of us!

Proceed, Mr. Minister!

Mr. Ogindo: Could I inform the Minister, Mr. Temporary Deputy Speaker, Sir?

The Temporary Deputy Speaker (Prof. Kaloki): Order! You stood on a point of order!

The Minister for Energy (Mr. Murungi): Thank you, Mr. Temporary Deputy Speaker, Sir. I was saying that we cannot run away from the fact, unless we do not want to. The primary causes of the escalation in petroleum prices are external factors and they are two. One is the escalation in the price of international crude oil which is primarily caused by geopolitics. What we are seeing in the Middle-East and northern Africa is affecting us. I think we cannot run away from that fact.

Secondly, the Kenya shilling has depreciated against the dollar. What you see in the fuel prices today, at least, Kshs5 is being contributed by the weakening of the Kenya Shilling *vis-à-vis* the dollar.

Mr. Temporary Deputy Speaker, Sir, it is not true to say that this Ministry has no ideas or has done nothing to intervene in the fuel prices in this country. This is not the

first time that we are having unacceptable high fuel prices in this country. It was there even last year. If Members can remember, around August; the oil prices were very high in this country. Following a public outcry, including by Members of Parliament, the Ministry introduced price regulations. The prices regulations had been in this country since 1984. For the first time, last year, we introduced price regulations. There is no other sector, where there are price regulations in this country.

Mr. Temporary Deputy Speaker, Sir, we are complaining the price formula is not working. I, too, have been saying maybe, we could see better results. But it has come at a difficult time because the effect of that formula cannot be felt now. This is because it only captures the cost from landed cost at Mombasa. So, when the international oil prices go up, even our prices have got to go up despite the formula.

Mr. Temporary Deputy Speaker, Sir, we have also passed regulations for the NOCK to import 30 per cent of the country's entire petroleum requirements, so that it can have capacity to enter into long supply contracts with oil producing countries such as Kuwait, Abu Dhabi and others. The whole purpose is to make sure that we move away from this hand and mouth operations, where the price of every cargo is different. We introduced that only three months ago. It will require time for NOCK to have capacity to be able to negotiate those long term contracts for this effect to be felt.

Mr. Temporary Deputy Speaker, Sir, in the cost build up, the taxes do contribute to the high petroleum prices. But the contribution at the maximum is about 26 per cent, including Road Maintenance Levy, Excise Duty and the Petroleum Development Levy (PDL). We have engaged in long discussion with the Treasury regarding what tax interventions we can make. We cannot touch the Roads Maintenance Levy, because contracts have been entered into and you remember the states of our roads. The only intervention that the Treasury could make was on the Excise Duty. When you look at the law, the maximum the Minister can give without coming to Parliament is 30 per cent, which he has given. Parliament is a very powerful institution. It can convert a man into a woman. It is for this Parliament through the budgets, to look at the law again to see if what the Minister did was insufficient; whether more can be done, but with its authority.

Mr. Temporary Deputy Speaker, Sir, we are also aware that inefficiencies in our petroleum infrastructure also contribute to high petroleum prices. There are inefficiencies in the refinery. We have inefficiencies in the Kenya Pipeline Corporation (KPC). My Ministry is addressing those inefficiencies. Our refinery is old and dilapidated. It is almost absolute technology. It is a refinery built in 1970s.

Mr. Temporary Deputy Speaker, Sir, as you know the Cabinet has approved to modernise the refinery. We have brought in a partner, the Essar Petroleum Company of India, and the refinery is being modernized at a cost of US\$899 million. It is only recently that a frontage engineering design consult had been put on board and we expect some results. Again, this is not something that will happen tomorrow.

Mr. Temporary Deputy Speaker, we are building a new pipeline. Finally, I have said the ultimate to the petroleum crisis in Kenya is us finding our own oil and gas. My Ministry has intensified the search for oil and gas in this country. We have drilled in Lamu and Isiolo. We are just about to start drilling in Turkana.

Ms. Karua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to say that the solution is only finding our petroleum, when his

colleague, Minister has already admitted that it is corruption and inefficiency? Is it in order for him not to focus on the corruption and inefficiency?

The Minister for Energy (Mr. Murungi): Mr. Temporary Deputy Speaker, Sir, I think the hon. Member did not listen to what I was saying. We are having challenges in the Ministry and I am addressing them. I do not run away from Ministries like her, when there are problems.

Ms. Karua: I ran away from corruption!

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Members, it is time to adjourn the business of the House. The House, therefore, stands adjourned until tomorrow, Wednesday, 20th April, 2011, at 9.00 a.m.

The House rose at 6.30 p.m.