

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 5th November, 2008

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

#### NOTICE OF MOTION

A BILL TO AMEND THE NSSF ACT  
TO PROTECT WORKERS' SAVINGS

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, concerned that the workers retirement savings in the National Social Security Fund (NSSF) continue to be mismanaged through financial misadventures by the Financial and Investment Committee of the Fund; this House grants leave for the introduction a Bill to amend the NSSF Act so as to protect the workers money, subject it to Retirement Benefits Authority Regulations, prevent the NSSF from dealing directly with banks and provide for employment by the NSSF of professional managers to advise the Finance and Investments committee.

Thank you, Mr. Deputy Speaker, Sir.

#### QUESTIONS BY PRIVATE NOTICE

CANCELLATION OF KENYA  
AIRPORTS AUTHORITY ERP TENDER

**(Mr. Magerer)** to ask the Minister for Transport:-

(a) Could the Minister table before the House documents relating to

the Kenya Airports Authority tender for the supply, installation, implementation and commissioning of an integrated Enterprise Resource Planning System (ERP)

(b) Is the Minister aware that the KAA Board has formed an oversight tender committee contrary to the Public Procurement and Disposal Act, which board has altered parts of the above tender's requirements to suit a company associated with some of the board members?

(c) Given the foregoing anomalies, could the Minister consider cancelling the tender and order re-tendering?

**Mr. Deputy Speaker:** Is Mr. Magerer not here?

Next Question by Dr. Khalwale!

EVICTON OF KANGEMI DAM RESIDENTS  
FROM PLOTS NOS.LR22767/LR22768

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands the **[Dr. Khalwale]**

following Question by Private Notice.

(a) Is the Minister aware that thousands of wananchi in Kangemi's Dam Village, Nairobi are currently homeless after they were evicted by a private developer from Plots No.LR.22767 and LR.22768 (off Waiyaki Way)?

(b) Who is the legal owner of those parcels of land?

(c) What urgent steps is the Minister taking to solve the dispute, considering that the squatters, the developer and the Veterinary Animal Research Department have all laid claim to the plots?

**Mr. Deputy Speaker:** Is the Minister for Lands not here? Honourable Vice-President and Minister for Home Affairs?

**An hon. Member:** Obama!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, it could very well be that due to the great amount of excitement in the country this morning, some of these hon. Members may not be here on time. If you could just bear with them, they are all celebrating, in their own way, the big and very historic win by Senator Obama.

**Mr. Deputy Speaker:** Precisely! Because of that, the Chair will have to wait and proceed to the next Question!

Next Question by Mr. Shakeel!

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. You have heard none other than the Leader of Government Business acknowledge that because of Obama's win in the United States of America (USA), the House is crippled. Could we allow him to move a Motion for Adjournment so that we could also continue the celebrations of having a Kenyan ruling the USA? I humbly request!

*(Applause)*

**Mr. Deputy Speaker:** Order! Indeed, our President has already done that and you must appreciate. Tomorrow is a public holiday. So, Kenyans will have a long day to celebrate, including today.

Let us proceed to the next Question by Private Notice by Mr. Shakeel!

#### INSTITUTION OF TECHNICAL AUDIT ON E.A. AIRLINES AIRCRAFT

**(Mr. Shakeel)** to ask the Minister for Transport:-

(a) Could the Minister explain why the East African Airlines aircraft destined for Kisumu on Thursday 31st July, 2008, at 5.45 p.m. failed to take off on the run way at the JKIA Airport?

(b) Could the Minister take urgent action to ground that aeroplane, Fokker (Registration No.5Y-EEE) before a major disaster?

(c) Could the Minister order an urgent technical audit to ensure that the above airline does not flout established air safety regulations and rules?

**An hon. Member:** He is in Kogelo!

**Mr. Deputy Speaker:** He is in Kogelo?

*(Laughter)*

Let us move on to Ordinary Questions!

#### ORAL ANSWERS TO QUESTIONS

##### *Question No.224*

#### UPROOTING OF TEA BUSHES BY SMALL-SCALE FARMERS

**Mr. Deputy Speaker:** Is Mr. Mureithi not here?

**An hon. Member:** Obama!

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

##### *Question No.250*

#### REHABILITATION OF INFRASTRUCTURE IN SOUTH WEST KANO/AHERO IRRIGATION SCHEMES

**Mr. Deputy Speaker:** Is Mr. Outa not here?

**An hon. Member:** He is in Kogelo!

**Mr. Deputy Speaker:** He is in Kogelo?

*(Laughter)*

Next Question by Eng. Maina!

*Question No.268*

GOVERNMENT SUPPORT FOR IDPS

**Mr. Deputy Speaker:** Is Mr. Maina not here?

**An hon. Member:** He is in Kogelo!

**Mr. Deputy Speaker:** He is in Kogelo?

*(Laughter)*

*Question No.395*

RELAXING OF EMPLOYMENT REQUIREMENTS  
FOR KENYANS IN THE ASAL REGIONS

**Mr. Deputy Speaker:** Is Mr. Affey also in Kogelo?

*(Laughter)*

Next Question by Mr. M'Mithiaru!

*Question No.413*

WITHHOLDING OF UNCLAIMED FINANCIAL  
ASSETS BY FINANCIAL INSTITUTIONS

**Mr. Deputy Speaker:** Is Mr. M'Mithiaru not here?

**An hon. Member:** He is in Kogelo!

**Mr. Deputy Speaker:** Hon. Members, this is getting too much now! This is a Sovereign State and we have a Parliament that is the supreme institution in this country. It is fair to be happy with the results of the American elections, but we have a sovereign country. We have very important business to transact in this House! Next

Question by Mr. Nyamai!

*Question No.438*

YOUTH POLYTECHNIC FOR YATTA DIVISION

**Mr. Deputy Speaker:** Is Mr. Nyamai not here?

**An hon. Member:** Kogelo!

*(Laughter)*

Next Question by Mr. Munyaka!

*Question No.359*

CONSTRUCTION OF FLY-OVER AT  
NAIROBI-MOMBASA ROAD  
MACHAKOS JUNCTION

**Mr. Deputy Speaker:** Is Mr. Munyaka not here?

**An hon. Member:** Kogelo!

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

*Question No.471*

RE-CARPETING OF MAZERAS  
-KALOLENI ROAD

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

(a) whether he is aware that Mazeras-Kaloleni Road is completely. Kambi]

dilapidated and is now

**[Mr. Kambi]**

almost impassable; and,

(b) what urgent steps he will take to re-carpet the road to ease the burden on motorists.

**The Minister for Public Works** (Mr. Obure): Mr. Deputy Speaker, Sir, with your permission, may I take this opportunity, on behalf of myself, and I am sure many hon. Members in this House and many Kenyans, to congratulate Mr. Barrack Obama for his victory

in the USA. I know that his victory will assist to improve the economic welfare of the people, not only of the USA, but all over the world.

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

(a) I am aware that the road between Mazeras and Kaloleni is in a poor state. However, the road is motorable.

(b) My Ministry will patch potholes this financial year under routine maintenance. In addition, resealing of this particular section will commence in January, 2009.

**Mr. Kambi:** Mr. Deputy Speaker, Sir, I appreciate the answer by the Minister. However, is he aware that, as we speak, motorists from Mombasa to Kaloleni are not using this road but have diverted to Mariakani-Mavueni Road because of the bad state of the road? What steps is he taking? Has he factored money for this road in the Budget?

**Mr. Obure:** Mr. Deputy Speaker, Sir, I was not aware that motorists have diverted to another road because of the very poor state of a section of this road. But we have allocated some money in the first quarter of this financial year, a total of Kshs7 million. We are in the process of allocating a further Kshs12.8 million to make this section motorable. I am sure that what the motorists are experiencing at the moment will be short-lived and the situation will be rectified shortly.

**Mr. Gunda:** Mr. Deputy Speaker, Sir, when this road was first constructed, one could drive from Mazeras to Kaloleni without seeing any other vehicle. Today, the road is not only very busy but the type of vehicles that used the road then were up to seven tonnes. Today there is a cement factory at Kaloleni and we have trucks weighing 60 tonnes using that road, and that is the reason it has deteriorated. Could the Minister confirm to the House that, when they re-carpet it, they will do so to accommodate the heavy trucks using the road at the moment?

**Mr. Obure:** Yes, Mr. Deputy Speaker, Sir. That is something we are experiencing all the time. Whenever we do a good road, traffic is diverted to that road, sometimes heavier traffic than initially envisaged; so, destruction of the road takes place on the first day. We will take into

consideration what the hon. Member has just said to ensure that we strengthen the surface of that road to ensure that it can accommodate the heavier trucks.

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I would like to know from the Minister the criteria they use in choosing the roads to be tarmacked, because you will find that we have roads which are very important to the people - there is a high number of vehicles that are using that road - yet they do not consider it for tarmacking. For example, there is a road from Mumias to the southern part of Mumias called Musanda in my place. It has very heavy traffic but they have never considered tarmacking that road. Which criteria do they use?

**Mr. Obure:** Mr. Deputy Speaker, Sir, you will appreciate that the hon. Member has taken us from Mazeras-Kaloleni Road in Coast Province, all the way to Western Province to raise a different Question. However, I would like to say that we apply specific criteria. First, is economic viability of the road, the volume of traffic passing on the road and the classification of the road in question. So, these are the criteria, not necessarily scientific, but we are in the process of reviewing this to ensure that the criteria become as reasonable and as logical as possible.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, between now and January is two

[**Mr. Ruteere**]

months. We are in the same financial year that we will be in January. Why is it necessary to wait up to next year so that re-sealing can start instead of re-sealing right now?

**Mr. Obure:** Mr. Deputy Speaker, Sir, you have to prepare for re-sealing. At the moment, we are patching the potholes to make the surface ready for re-sealing in January.

**Mr. Kambi:** Mr. Deputy Speaker, Sir, the Minister has said that he will start the re-sealing in 2009. Could he tell this House how much money has been budgeted for the re-sealing of this road?

**Mr. Obure:** Mr. Deputy Speaker, Sir, I know that we have allocated funds for this road but, unfortunately, I do not have the figure with me right now, but I will make it available to the hon. Member.

*Question No.462*

FATE OF STUDENTS ADMITTED TO  
BACHELOR OF TECHNOLOGY AT THE  
KENYA POLYTECHNIC UNIVERSITY

**Mr. Deputy Speaker:** Mr. Lessonet! He is not here!

We will go back to Questions by Private Notice! Mr. Langat!

*(Resumption of Questions by  
Private Notice)*

CANCELLATION OF KENYA  
AIRPORTS AUTHORITY ERP TENDER

(**Mr. Magerer**) to ask the Minister for Transport.

(a) Could the Minister table before the House documents relating to the Kenya Airports Authority (KAA) tender for the supply, installation, implementation and commissioning of an integrated enterprise resource planning system (ERP)?

(b) Is the Minister aware that KAA

Board has formed an oversight tender committee contrary to the Public Procurement and Disposal Act, which board has altered parts of the above tender's requirements to suit a company associated with some of the board members?

(c) Given the foregoing anomalies, could the Minister consider cancelling the tender and order re-tendering?

**Mr. Deputy Speaker:** Mr. Langat is not here! The Question is dropped!

*(Question dropped)*

EVICTION OF KANGEMI DAM  
RESIDENTS FROM PLOT  
Nos. LR 22767/LR 22768

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, for the second time, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Is the Minister aware that thousands of wananchi in Kangemi's Dam Village, Nairobi, are currently homeless after they were evicted by a private developer from Plot Nos.LR.22767 and LR.22768, off Waiyaki Way?

(b) Who is the legal owner of these parcels of land?

(c) What urgent steps is the Minister taking to solve the dispute, considering that the squatters, the developer and the Veterinary Research Department have all laid claim to the plots?

**Mr. Deputy Speaker:** Minister for Lands? He is not here! Mr. Vice-President and Leader of Government Business! The [**Mr. Deputy Speaker**]

Minister for Lands is not in the House to answer Questions!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, this is applicable to hon. Members, who had been listed to ask Questions this morning, as well as Ministers.

**Mr. Deputy Speaker:** Order, Mr. Vice-President! We are citizens of the Republic of Kenya! This is a supreme institution of this country. Our responsibility is to our country, first and foremost. We are not citizens of the USA! Much as we appreciate and we are all happy; nonetheless we are a country ourselves.

*(Applause)*

So, it is not an excuse for a Minister to be away from his own Parliament, because he is celebrating the victory of another presidential candidate in another country.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, I had it in my notes that Mr. Bifwoli was supposed to be here to answer this Question. He must be trying to get here. But as my sister, Dr. Kosgey, has also pointed out to me, my friend, Mr. Lessonet, is also not here. So, we appreciate that---

**Mr. Deputy Speaker:** Order, Mr. Vice-President! When hon. Members are not here, they suffer the consequences because the Questions are dropped!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Very well, Mr. Deputy Speaker, Sir. My apologies to the House because there is nobody from the Ministry of Lands. The only Ministry I was aware that it was not ready this morning is the Ministry of Transport, because they are saying that the Order Paper was not taken to their Ministry; therefore, they were not in a position to prepare answers. Unfortunately, or fortunately, for them, both hon. Members are not able to ask the Questions today. However, I think it is important that I point that out so that the Clerk's Department will ensure that Ministries get Order Papers in time.

**Mr. Deputy Speaker:** Hon. Leader of

Government Business, the issue we have right now is: When do we get an answer for Question No.2 by Private Notice from the Minister for Lands? We need a firm undertaking as to when we will get the answer.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, we will look for the Minister and his Assistant and make sure that the Question is listed for next Tuesday because tomorrow is a public holiday.

**Mr. Koech:** On a point of order, Mr. Deputy Speaker, Sir. From your ruling, you have understood why the Minister for Lands is not in the House. We cannot avoid to remove the blood from one of our own and pretend that we are not celebrating. Would I be in order to request that the Question asked by hon. Lessonet be also deferred to another date?

**Mr. Deputy Speaker:** Order! That is the role of the Chair!

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. It might not be in the knowledge of the Vice-President and Minister for Home Affairs that this Question is talking about 2,000 families who are now homeless in Kangemi Dam Village. Due to the urgency of the matter, as we wait for the Minister for Lands to come, could the Vice-President and Minister for Home Affairs undertake to accompany me tomorrow so that we visit these people at Dam Village in Kangemi who have been living there for the last 19 years? A private developer, who is a friend of this Government, was allowed to kick them out.

**Mr. Deputy Speaker:** That is not a point of order but, nonetheless, the Vice-President and Minister for Home Affairs will be at liberty to answer that.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, and as he comes, allow me to give to [Dr. Khalwale]

him an appeal signed by 1,220 men and women who are living in that camp; in the cold. Two primary schools and 12 churches have been knocked down. Allow me to give the Vice-President this appeal to read. Also, allow me to give him two Digital Video Discs

(DVDs) having clips showing how his policemen destroyed that village, maimed and raped women and hit children, so that he can see it before he accompanies me to Kangemi Dam Village tomorrow afternoon. This is a very serious matter. This is how your police are behaving in this country! No wonder they brought post-election violence.

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

**Mr. Deputy Speaker:** Order, Dr. Khalwale! Much as the matter is emotive as you have put it and you are passionate about it, the issue is not before the House. There is no Minister to answer that. That now becomes the substance you are going to table when the Minister is answering the Question. Nonetheless, if the Vice-President and Minister for Home Affairs has a preliminary answer to it and on his own volition would want to accompany you, the Chair has no objection to it but you cannot compel him to do that.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, the hon. Member for Ikolomani knows he is my friend and I appreciate his invitation but I would want to plead with him that we wait until Tuesday to be able to get a comprehensive answer from the Minister. So, let me not be the one to jump the gun by accompanying him. He has made some very serious allegations against the police and I think this matter should be taken in his stride next Tuesday.

**Mr. Deputy Speaker:** The Question is deferred to Tuesday next week.

*(Question deferred)*

**Mr. Deputy Speaker:** Question No.3 by Private Notice by hon. Shakeel!

INSTITUTION OF TECHNICAL AUDIT  
ON E.A AIRLINES AIRCRAFT

**Mr. Shakeel** to ask the Minister

for Transport:-

(a) Could the Minister explain why the East African Airlines aircraft destined to Kisumu on Thursday 31st July, 2008, at 5.45 p.m failed to take off the runway at Jomo Kenyatta International Airport?

(b) Could the Minister take urgent action to ground this aeroplane Fokker (Registration No.5Y-EEE) before a major disaster?

(c) Could the Minister order an urgent technical audit to ensure that the above airline does not flout established air safety regulations and rules?

**Mr. Deputy Speaker:** Mr. Shakeel also not here? The Question is dropped!

*(Question dropped)*

*(Resumption of Oral Answers to Questions)*

*Question No.224*

UPROOTING OF TEA BUSHES BY  
SMALL-SCALE FARMERS

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

*(Question dropped)*

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

*Question No.250*

REHABILITATION OF INFRASTRUCTURE  
IN WEST KANO/AHERO IRRIGATION SCHEMES

**Mr. Outa** asked the Minister for Water and Irrigation:-

(a) whether she is aware that the National Irrigation Board

(NIB) is not servicing or maintaining the infrastructure of irrigation schemes, particularly South West Kano and Ahero irrigation schemes;

(b) whether she is further aware that the road network within the schemes is dilapidated and the drainage systems bushy and blocked; and,

(c) what she is doing to ensure that infrastructure in the schemes are adequately maintained at all times.

**The Assistant Minister for Water and Irrigation** (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, as you can see, people are really celebrating. However, I am wondering whether the Americans have not reported to work and yet it is their victory. I am also hoping that there will be no homecoming for Obama. If there is one, the Leader of Government Business should alert us in good time so that we can set up a committee to organize for his homecoming.

*(Laughter)*

However, I beg to reply.

(a) My Ministry, through the NIB, has not stopped operation and maintenance services of the infrastructure of Ahero and South West Kano irrigation schemes. The Board continues to finance major infrastructure and rehabilitation of the schemes. The farmers, through the co-ordination of the Scheme Management Committee and support of the Board, pay an agreed fee to meet the operation and maintenance costs for infield systems as part of the participatory irrigation management. However, our efforts to rehabilitate and put the schemes back to full operation status are being frustrated by some leaders from the area who are inciting the youths and non-scheme farmers against the genuine farmers' leaders.

(b) I am further aware that the road network within the schemes is dilapidated and drainage systems are bushy and blocked. During the Financial Year 2007/2008, a total of 20.3 kilometres of road were graded and another two kilometres were graded and gravelled and 31.5

kilometres of the drainage system were maintained. Additional work will be undertaken this financial year to restore the schemes' roads and facilitate access by farmers.

(c) The combined acreage of Ahero and West Kano schemes is about 1,800 hectares. To be precise, it is 1,777 hectares. Unfortunately, some leaders from the area have been interfering with the management of the schemes. As a result, the schemes operate at only 30 per cent of their potential, a situation which has led to the farmers becoming poorer. However, my Ministry, through the NIB, has continued to maintain the main infrastructure with the aim of handing over the maintenance of the secondary infrastructure to farmers as part of participatory irrigation management. This is in line with the incoming policy and institutional framework for the irrigation subsector in the country.

**Mr. Outa:** Mr. Deputy Speaker, Sir, while we are still in the mood of celebrating the victory of the President-elect of the US, Barrack Obama, I want to thank the Assistant Minister for attempting to answer this Question. However, I want to bring to his notice the fact that the NIB has lost its saltiness in delivering the services as mandated by the Act. West Kano and Ahero [Mr. Outa] irrigation schemes collapsed because of the poor management by the NIB and that is true since it is on record---

**Mr. Deputy Speaker:** Ask your question!

**Mr. Outa:** Mr. Deputy Speaker, Sir, let me just elaborate a little bit on the situation in South West Kano and Ahero irrigation schemes. Could the Assistant Minister inform the House what his Ministry is doing to provide enough money to be able to maintain infrastructure, especially the main and feeder canals so that the farmers can have access to water to be able to carry out rice production adequately and in time? Secondly, how much money are they intending to allocate for that purpose?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, it is interesting to note that we have

personal interests and we are not declaring them. However, it is always important that, as hon. Members, when we have personal interests, we declare them. We have answered the Question. The Ministry has a new Minister and an Assistant Minister who are very capable. We have reorganised most of the sectors, including the National Irrigation Board (NIB), which is now very alert and doing its work.

Mr. Deputy Speaker, Sir, we have the estimates for the work that is supposed to be done at Ahero Irrigation Scheme. It is a total of Kshs8,170,000. For Kano Irrigation Scheme, the estimate is Kshs9.9 million.

**Mr. Outa:** Mr. Deputy Speaker, Sir, I would like to tell the Assistant Minister that the National Irrigation Board (NIB) has failed in its mandate. The money they are talking about has been generated in the scheme under what is called participatory management with the farmers. The Government has never given any money for repairing the main and feeder canals. The money we have received to maintain the canals was paid by the farmers to provide what is called Operation and Maintenance. As I speak, the NIB receives this money but in return, they are not giving the services worth the Operation and Maintenance money paid by farmers. How much money did the Ministry allocate to the project in 2007/2008 for maintaining the main canal and pumps in the irrigation scheme in order for the farmers to get enough water for irrigation?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, it is true that a participatory programme has been put in place. Farmers and us come together in order to maintain Operation and Maintenance. I have said here that this project is only operating at 30 per cent. There is no way you can expect a project operating at 30 per cent to be self-sustaining. I have said clearly that this is due to political interference. I thought the hon. Member would attempt to question me on that fact but because he did not, that tells you it is true that there is political interference. It is also true that there are personal interests in this matter. Kenyans are suffering and we cannot allow the leadership of this country to continue politicking instead of taking the necessary action. I would wish that we deal with the political

question. We need to reorganise those farmers if we have their interests at heart.

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

*Question No.268*

NUMBER OF IDPS SETTLED  
BY THE GOVERNMENT

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

*(Question dropped)*

Next Question!

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

**Mr. Deputy Speaker:** What is your point of order? I hope it is not on the [Mr. Deputy Speaker] Question we have just disposed of!

**Mr. Outa:** Mr. Deputy Speaker, Sir, it is still within---

**Mr. Deputy Speaker:** It cannot be! We have passed that now---

**Mr. Outa:** But that is too short, Mr. Deputy Speaker, Sir!

**Mr. Deputy Speaker:** Mr. Outa, it is not too short! You had ample time to seek clarifications, to ask supplementary questions and all that. We have gone to the next Question and business continues.

Next Question, Mr. Affey!

*Question No.395*

RELAXING OF EMPLOYMENT REQUIREMENTS  
FOR KENYANS IN ASAL REGIONS

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

*(Question dropped)*

*Question No.413*

WITHHOLDING OF UNCLAIMED FINANCIAL

## ASSET BY FINANCIAL INSTITUTIONS

**Mr. M'Mithiaru** asked the Minister for Finance:-

(a) whether he is aware that financial institutions in Kenya hold billions of shillings in unclaimed financial assets;

(b) whether he is further aware that widows, orphans and other dependants have suffered due to lack of a formal mechanism to reclaim the funds; and,

(c) what action he is taking in order to resolve this matter.

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

(a) Yes, I am aware that financial institutions in Kenya hold billions of shillings in unclaimed financial assets in the region of Kshs38 billion.

(b) Yes, I am further aware that widows, orphans and other dependants may have suffered due to lack of an appropriate mechanism to reclaim the funds.

(c) In March, 2008, a task force was constituted to look into the issue and make appropriate recommendations. Its findings were discussed with stakeholders on 30th October, 2008, and I am, therefore, waiting for the final report in order to act on it.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, the Assistant Minister has made an attempt to answer the Question. However, the Kshs38 billion that he says is held by the financial institutions is a terrible under-statement. I am aware that in most of these financial institutions after about two to three years, if the funds are not claimed, they write them back to their profits and distribute the money to the shareholders. This is depriving the ordinary Kenyans their rightful shares. Could the Assistant Minister give us a breakdown of this Kshs38 billion in order of the financial institutions wherever they are?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, the amount which can be determined is the Kshs38 billion. However, this issue is so serious that it is the Ministry of Finance that drew the attention of

the House to this fact during the Budget Speech. So, when the hon. Member was asking whether the Minister is aware, actually, it is the Minister who made the Member aware that there is a serious situation. A task force has been formed to look into this. They have already produced a preliminary report giving a breakdown of all the issues. That report will soon be laid on the Table. It will give the extent and the breakdown of the amounts owed to wananchi who are suffering.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, I am surprised that the Assistant Minister says that it is the Minister who brought this matter to the attention of the House. If they knew about it, why would the Ministry go out to secure some Kshs16 billion for the Port of Mombasa? If they knew that there is a cool minimum Kshs38 billion, then they were not serious enough to pursue this issue!

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I do not understand the question! The Minister drew the attention of the House---

**Mr. Deputy Speaker:** There is a question you have not answered! The hon. Member asked you whether these financial institutions will plough back that money into their profits after two to three years. You did not give a direction on that.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I have said that all the stakeholders were involved in a task force which was to look at the issue in depth and give recommendations on the way forward with regard to these funds, which have almost disappeared within the financial institutions. It is a grave matter which cannot be handled without proper investigation.

**Mr. Deputy Speaker:** Given the gravity or the greatness of the matter, are you giving an undertaking to this House that you are going to avail that information?

**Dr. Oburu:** Yes, Mr. Deputy Speaker, Sir. This is what the Minister said during the Budget Day:-

"Institutions licensed under the Banking Act do, from time to time, accumulate funds or other

financial assets which, for one reason or another, have not been claimed by their customers or depositors. The funds, or assets, finally remain with the institutions while the beneficiaries continue to suffer. In order to address these challenges, I have constituted a task force consisting of stakeholders in the financial sector to look into the matter with a view to establishing the magnitude of the unclaimed financial assets currently being held by these institutions, and propose the way forward, including the amendment of relevant laws to ensure that these unclaimed financial assets are in safe hands and the beneficiaries are paid when they resurface".

Mr. Deputy Speaker, this means that there are beneficiaries who have not claimed these funds and the institutions take advantage of the unclaimed funds.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, while I appreciate the answer from the Assistant Minister and, indeed, we will be looking forward to the detailed report. If you look at part "b" of the Question, it says that there is lack of a formal mechanism to reclaim the funds. The Government is prone to setting up commissions or committees to sort out pending bills, but they have not done so. Now, they are setting up another committee to sort out this matter. That means that there is no system in place to ensure that the financial institutions secure the dependants in writing and that another body does supervision. The Assistant Minister is saying that, that was said in the Budget Speech, which was in June and now we are in November. In the meantime, could he issue an executive order to ensure that future engagements by these financial institutions have a formal mechanism through which they will be reporting to the Central Bank of Kenya (CBK), or to the Ministry, so as to monitor the process on a regular basis, for example after every three months?

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I agree with the hon. Member that there is no formal

mechanism to recover this money, and that is why the task force has [**Dr. Oburu**] been established to recommend relevant laws which will be brought before this House, so that formal institutions or mechanisms can be established in order to deal with this situation. That will come to the House very soon. The draft report is already here, but I am not tabling it because it is in draft form, but it will soon be brought here. The relevant laws to make this matter formal will be brought to this House.

**Mr. K. Kilonzo:** Mr. Deputy Speaker, Sir, the Assistant Minister has given a figure of Kshs38 billion as the money which is being held by the financial institutions. In most cases, the figures which are given exclude the monies held by the Deposits Protection Fund (DPF). Could he confirm to this House that the figure he has given includes the money which is held by the DPF? If so, how much is held by the DPF? This is part of depositors' money.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, these are unclaimed funds, which were deposited by investors in the financial institutions. So, the extent of investment in the DPF is not yet established. We do not know whether it is part of it. What we have established is that the actual deposits in those banks and financial institutions amount to Kshs38 billion.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, could the Assistant Minister confirm to this House whether that committee's mandate is going to include the DPF and the Pensions Department? A lot of that money is held by those two institutions. The families need to know.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I did not get the question.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, I wanted the Assistant Minister to confirm whether the mandate of the committee is going to extend to the DPF.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I have read out to you what was read out by the Minister. The mandate of the committee is so comprehensive that it covers all stakeholders like the Retirement Benefits Authority (RBA),

the pensions funds like the National Social Security Fund (NSSF), the Pensions Department of the Government and all other bodies which hold people's deposits. They are all covered by that particular committee. So, they are the stakeholders.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, the subsequent reply from the Assistant Minister is not satisfactory at all. The Kshs38 billion, which is in financial institutions belongs to the poor Kenyans and this is just the tip of the iceberg. We have not talked of the unclaimed dividends in companies, unclaimed money in pension funds or the unclaimed money in the insurance companies. This is a colossal sum of money and the Ministry cannot just take it lightly. I am not satisfied because I wanted the breakdown of the Kshs38 billion, which is held by financial institutions. The Assistant Minister said that there is a task force and the stakeholders are involved. Who are these stakeholders when the poor Kenyans, whose money is being held, are not even party to that stakeholders' forum. So, I am satisfied. Could the Assistant Minister do research and bring back a good reply?

**Mr. Deputy Speaker:** Mr. Deputy Speaker, Sir, who are the stakeholders and what is the breakdown? The hon. Member has asked you about the Kshs38 billion, which is a colossal sum; it is twice the size of Goldenberg, which you have already admitted to. Could you give a breakdown of that and the financial institutions are holding that money and who the stakeholders are? Please, try and answer those fundamental questions that the hon. Member has asked you.

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I have already stated that the stakeholders include the institutions which are holding those funds and the representatives of the beneficiary institutions. Beneficiary institutions are

**[Dr. Oburu]**

represented by trade unions on the task force. The financial institutions, where the deposits are held, are also part of the taskforce. The Government departments concerned are also stakeholders in that task force.

Mr. Deputy Speaker, Sir, as far as the breakdown is concerned, I do not have it with me at the moment but I can provide it to the House on

Tuesday next week.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, the Kenyan financial market is a regulated market. The Assistant Minister is not having this issue at heart. There is the CBK, the Capital Markets Authority (CMA), the RBA and others who do the regulation. These are institutions which would normally receive reports from the financial institutions. So, the

answer is completely unsatisfactory.

**Mr. Deputy Speaker:** The Assistant Minister has undertaken---

**Dr. Oburu:** Mr. Deputy Speaker, Sir, I did not say that the information is not available! I have said that I will bring the information on Tuesday!

**Mr. Deputy Speaker:** Fair enough! The Question is deferred to Tuesday next week!

*(Question deferred)*

Next Question by Mr. Nyamai! He is not there? That Question is dropped!

*Question No.438*

YOUTH POLYTECHNIC FOR YATTA

*(Question dropped)*

*Question No.359*

CONSTRUCTION OF FLY-OVER AT  
NAIROBI - MOMBASA ROAD  
MACHAKOS JUNCTION

**Dr. Munyaka** asked the Minister for Roads:-

(a) whether he is aware that there is a black spot at the Machakos junction of the busy Nairobi-Mombasa Road, and many traffic accidents have occurred on that spot; and,

(b) whether he could consider constructing a fly-over at the junction to minimise accidents.

**The Minister for Public Works** (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I agree that the Machakos Turn-off along the Nairobi-Mombasa Road could be described as a black spot because many accidents have occurred there. Indeed, you will recall that our own Head of State was involved in an accident on that spot.

(b) My Ministry has already embraced the proposal to construct a fly-over at that junction, as

part of a larger project to construct a dual carriageway between that junction and Athi River Town.

**Dr. Munyaka:** Mr. Deputy Speaker, Sir, I want to thank the Minister for being very frank, and promising to rectify the situation. Considering that our current Head of State almost lost his life at that spot, when will the Minister take the necessary action at that spot?

**Mr. Obure:** Mr. Deputy Speaker, Sir, we have already acquired the land to construct that dual carriageway between that junction and Athi River Town. Right now, negotiations are going on to secure funding. We hope that, that will be accomplished very soon.

**Mr. K. Kilonzo:** Mr. Deputy Speaker, Sir, the Minister is talking of a proposal to acquire land, but that is not enough. Many accidents have occurred at that spot and the Minister has acknowledged that it is a black spot. We want to know when the feasibility studies will be done; when the work will commence and how much it will cost.

**Mr. Obure:** Mr. Deputy Speaker, [Mr. Obure]

Sir, the land has already been acquired. A feasibility study was carried out. Now, what remains is to conclude negotiations for funding. We hope that, that will be done very soon.

**Mr. Gunda:** Mr. Deputy Speaker, Sir, could the Minister confirm whether the fly-over is for vehicles or for people? We know that many fly-overs that have been constructed are not being utilised by the people.

**Mr. Obure:** Mr. Deputy Speaker, Sir, we are not talking about a fly-over just for pedestrians. We are talking about an interchange where the traffic is properly guided to avoid the kind of accidents that the hon. Member is concerned about.

**Mr. Bett:** Mr. Deputy Speaker, Sir, while thanking the Minister on what is going on along that section of Nairobi- Mombasa Road - which runs from Embakasi to Machakos - I want to ask the Minister whether he is satisfied that, that contractor is on time. It seems to us - as users - that he is taking too long on that road. If he is satisfied, when will it be completed?

**Mr. Obure:** Mr. Deputy Speaker, Sir, the particular contractor was awarded that project through a very competitive process. It was established that he has the capacity to undertake the works he was assigned to undertake. However, I would like this august House to know that there were a lot of challenges along the way. Some of them have been cleared while others are outstanding. That is partly why the project was delayed. But I am confident that the contractor has the capacity to undertake that work. He is under constant instruction from the Ministry to ensure that he catches up on lost time. We are sure that, that project will be completed.

**Mr. Mututho:** Thank you, Mr. Deputy Speaker, Sir. It is gratifying to hear that they are going to construct that fly-over like the wonderful one they did at Naivasha. However, there are still very many other black spots like Kinungi, where 78 people have died. Those are pedestrians who tried to cross the road. In actual fact, the fourth person was killed by a vehicle belonging to this august House. Are there plans to take care of those other black spots?

**Mr. Obure:** Mr. Deputy Speaker, Sir, I

appreciate the questions raised by the hon. Member for Naivasha. One of our major priorities, when we are undertaking road works, is to consider the question of safety. That is the topmost priority in the Ministry's order of priorities to ensure that pedestrians, motorists and everybody using the road is safe. We are undertaking constant review of the accident spots around the country, and we will take appropriate action as necessary to ensure that the lives and safety of the general public are guaranteed.

**Mr. Chepkitony:** Mr. Deputy Speaker, Sir, that particular spot is known to be very notorious for accidents. The Minister has avoided to being specific on when the work will be done. He has only said that they are negotiating for funds. Could the Minister give a time-frame with which he will construct that fly-over?

**Mr. Obure:** Mr. Deputy Speaker, Sir, I know that there is general concern, not just by Members of Parliament, but also by the general public at large, about the Machakos Junction black spot. However, I want to say that all the preparatory work has been completed. The land has been acquired and the necessary preparations have taken place. What we are doing at the moment is to negotiate with our partners for funding. That is because it is a huge project. As I said, it is part of the bigger project. It is not possible for me to say when it will be completed because negotiations involve more than ourselves. It involves other parties. I cannot unilaterally say when those negotiations will be concluded because that will be dictatorial on my part. But I would like to say that progress is being made. I am confident that we will be undertaking those works very soon. I cannot tie myself to a **[Mr. Obure]** specific date at this moment because other parties are involved.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, while I appreciate the good answers from this good Minister, he has confirmed that the land for the construction will be acquired. I am just wondering which mode of acquisition he is going to employ. Is it like the one along Thika

Road? Mr. Minister, I would like to appeal to you to look at other ways of doing this business.

**Mr. Obure:** Mr. Deputy Speaker, Sir, what we have done on the section between Athi River Town and Machakos Turn-off is not anything close to what we have seen in the last few days along Thika Road. What we have done is to negotiate and acquire land from individuals who have been paid compensation on agreed rates. In respect to the inference that my friend has made about Thika Road, I will be back here this afternoon to deal with a Question on Thika Road.

**Ms. Odhiambo:** Mr. Deputy Speaker, Sir, could the Minister indicate what temporary and urgent measures he has put in place to protect life? In the last two months alone, I have lost two friends on that road, one of whom is a Mr. Alila, who was only 30 years old and worked with the armed forces. He was buried over the weekend. What urgent measures is the Minister putting in place to avoid further loss of life?

**Mr. Obure:** Mr. Deputy Speaker, Sir, I regret incidents where loss of life is involved. We would like to avoid those situations by improving our road conditions. On the section between Nairobi and Machakos Turn-off, you know the measures that we have taken to improve the road conditions there. We have expanded the road and making it a dual carriageway; all the way from Machakos to Jomo Kenyatta International Airport. We are relocating the weighbridges to make sure that there is no congestion or heavy vehicles crossing those sections. We are also in the process of doing an inter-change on the junction to Namanga at Athi River Town. We believe that all those measures put together, plus other measures which will involve education to motorists and general public, will improve safety along our roads.

**Mr. Deputy Speaker:** The last one, Dr. Munyaka!

**Dr. Munyaka:** Mr. Deputy Speaker, Sir, I am satisfied, so far.

*Question No.462*

FATE OF STUDENTS ADMITTED  
TO BACHELOR OF TECHNOLOGY AT  
KENYA POLYTECHNIC UNIVERSITY

**Mr. Lessonet** asked the Minister for Higher Education, Science and Technology:-

(a) whether he is aware that students admitted to pursue Bachelor of Technology (Electrical Power Engineering option) at the Kenya Polytechnic University in the Academic Year 2007/2008 are yet to report; and,

(b) considering that students admitted to other public universities in the 2007/2008 Academic Year have already completed first year studies, when the students in "a" above will commence studies.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that students admitted to pursue Bachelor of Technology, Electrical Power Engineering option at the Kenya Polytechnic University in the Academic Year 2007/2008 are yet to report.

(b) The students admitted to the [The Assistant Minister for Higher Education, Science and Technology] Kenya Polytechnic University College could not begin studies because the Council has not been put in place. The nomination of the Council members is being finalised and students will be considered for admission as soon as this is resolved.

**Mr. Lessonet:** Mr. Deputy Speaker, Sir, I must confess that I am really surprised by the reasons given for the students not to have reported. How long does it take to have a Council in place? We have very many able Kenyans who are willing to occupy the positions of the University Council.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the Kenya Polytechnic University College was gazetted vide Gazette Notice No.82 under the Legal Notice No.159 on August, 2007, as a

constituent college of the University of Nairobi. We have appointed the Principal, who is now in charge, but on the issue of the Chairman and the Vice-Chairman, we are having consultations with the Office of the President, so that this is finalised. The Chairman, together with the Vice-Chairman and the other members of the Council will be appointed, so that this university can operate in a legal way.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, this is very sad. Students have been admitted to university, others have started their studies while these ones have not started theirs. The Assistant Minister is telling us that they cannot join university because the Council is not in place. Could the Assistant Minister transfer these students to other universities, so that he does not delay their learning any further? They are not getting younger. They are getting older!

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I take the comments made by the hon. Member very seriously. I know that these students are actually suffering. However, I would like to confirm to the House that negotiations on this matter are being finalised. The full Council will be in place very soon. What Dr. Eseli has said about the transfer is not possible, because of inadequate bed capacity. In the meantime, the issue is being handled in the most appropriate way.

**Mr. Mwaura:** Mr. Deputy Speaker, Sir, from the information that the Assistant Minister has given to this House, it is very clear that the Ministry has taken one year and three months to think about the composition of the Council. The students, their parents and the nation are in agony. Could the Assistant Minister be specific and give us a timeframe within which a Council will be put in place? He should not tell us that this will be done "soon". How soon is "soon"?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I have confirmed to the House that the Ministry has forwarded the names that are supposed to be appointed to the Council. I do not want to speak for the Office of the President. I think vetting is still going on and I hope the Office of the President will give us an answer very soon.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, this House needs to empathise with these

students. Over 100 students were admitted to this University. One year down the road, they are yet to start their studies just because the Council is yet to be put in place. Somebody is sleeping on the job. The Assistant Minister cannot get away with this one. He is not even telling this House when the Council will be put in place in order for these students, at least, not to lose the second or the third year.

In his own words, the Kenya Polytechnic University is a constituent college of the University of Nairobi. Why can the mother university Council not oversee this exercise and transfer the students to the University of Nairobi? This is what we want to know. We do not want to know what happens between them and their appointing authority.

**Mr. Deputy Speaker:** Hon. Assistant Minister, the lives and the future [**Mr. Deputy Speaker**]

of Kenyan youth is involved in this. Over 100 students is not a small number. Think of one of them being your son or your daughter; we, as Parliamentarians, should actually conduct ourselves well. Can you give a definite answer on this? Or, give an undertaking to the House that you will come back at a given date and tell the hon. Members whether the Council will have been constituted and when the students are going to start their studies.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I also sympathise with the situation of the students just as you are doing, but we have bureaucracy in this country. It is not a secret and everybody knows that we have bureaucracy and systems. I want to confirm to the House that we will keep on reminding the Office of the President to fasttrack this issue, so that students can start their studies as soon as possible. I know that this is an issue that is really sensitive to most parents and the students.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. I appreciate his limitations, and I do not want to go that route. But I think there is something that the Assistant Minister can do. Could he order that these students join the other universities, so that they do not lose any more time? If the Assistant

Minister is as sympathetic as he purports to be, he should order that these students be admitted in the mother university, namely the University of Nairobi.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, that is an issue that will be sorted out by the Joint Admissions Board. We will explore that option. However, we want to fasttrack the negotiations, so that the Chairman and the Members of the Council are appointed, so the University can become operational. We have problems of inadequate bed capacity and other things. So, we will do something about it.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, the Assistant Minister has told us that the only reason why he cannot transfer these students to the University of Nairobi is because there is inadequate bed capacity. Could he give a monthly stipend, in the meantime to these students, so that while they are attending classes at the University of Nairobi they can use that money to pay for accommodation outside? When the Council is in place, the students can then be accommodated at the College?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I want to confirm to the House that if the Ministry will not receive information from the Office of the President, we will consider those options in liaison with the Joint Admissions Board.

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

**Mr. Deputy Speaker:** Order! Order, Mr. Affey! We are on Question No.462.

**Mr. Bett:** Mr. Deputy Speaker, Sir, it is disturbing to hear that these children cannot be admitted into the university because of beds. There are so many furniture shops in town with beds. If the Assistant Minister is unable to procure those beds, I am offering myself to receive money from him and buy the beds for those children to be admitted into the university.

*(Laughter)*

**Mr. Kamama:** That is a bit hilarious but we have beds and beds have to occupy a certain space. I am talking about space.

**Dr. Eseli:** On a point of order, Mr. Deputy Speaker, Sir. This response is very sad. For a long time, the Government has always asked Kenyans what they are doing for Kenya. Now, it is the time we asked the Government what they are doing for Kenyans. I think we should defer this Question to enable the Assistant Minister to bring a more reasonable answer than what he has done so far.

**Mr. Deputy Speaker:** Mr. Assistant Minister, the Chair shares the sentiments of the House. It is the directive of the Chair [**Mr. Deputy Speaker**] that this Question be deferred to Wednesday afternoon next week. You had better come with an answer that shows the way forward for these Kenyan students.

#### POINT OF ORDER

HOUSE SHOULD ADJOURN TO DISCUSS  
ELECTION OF MR. BARRACK OBAMA

**Ms. Odhiambo:** On a point of order, Mr. Deputy Speaker, Sir. It is not on this issue. I stand on a point of order under Standing Order No.20 to seek leave for adjournment of the House to discuss the American presidential election results.

*(Applause)*

Mr. Deputy Speaker, Sir, the President-elect, Mr. Obama, is a son of the soil of this country. Every other country in this continent is celebrating the Obama win. It is only proper and fitting that the country which he originates from should show the same excitement, pomp and colour. I, therefore, seek leave of the House that we adjourn to discuss the issue.

**Mr. Deputy Speaker:** Order! Order! Ms. Odhiambo, Standing Order No.20 says:-

"Any hon. Member may at any time rise in his place and seek leave to move the adjournment of the House for purposes of discussing a definite matter of

urgent national importance."

This means national "Kenyan" importance. The election of Senator Barrack Obama---

**An hon. Member:** It is President Obama!

**Mr. Deputy Speaker:** President-elect has not been sworn-in yet. The election of President-elect Obama is of utmost national importance to the United States of America. Ms. Odhiambo, you are a lawyer. You had better be very careful where you transgress between watching your own sovereignty and what can be interpreted in some quarters as some form of treason. We appreciate and respect him. We are happy and we were looking forward to his election. It is not a matter of urgent definite national importance to Kenya. In any case, whereas the ruling from the Chair would not have been any different, you are supposed to approach the Chair at least two hours in advance and give a notice of that information.

Nonetheless, let us hold our horses. Let the excitement not make us look like American citizens. We are citizens of the sovereign Republic of Kenya.

*(Applause)*

Hon. Members, I think we had better take note of that and internalise it. We should know where our utmost loyalty is.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): On a point of order, Mr. Deputy Speaker, Sir. I just want to seek guidance from the Chair on this matter. Considering the fact that even His Excellency the President declared that tomorrow will be a national holiday to celebrate Obama's success, do you not think this is an urgent matter? So many man hours will be lost tomorrow because of this "Obama mania". I seek guidance on this matter.

**Mr. Deputy Speaker:** Hon. Members, tell me what is so urgent that you really want to discuss? Do you want to discuss the speech of Obama? What do you want to discuss on this Floor? If it is the celebrations, His Excellency the President has made tomorrow a public holiday. The House is not open to any debate on the ruling

of the Chair. Those are the rules under the Standing Orders of the Republic of Kenya. I do not know how it is in the American Congress but for the Republic of [Mr. Deputy Speaker] Kenya, the Chair has given a ruling on this and the matter is closed.

**Mr. Affey:** On a point of order, Mr. Deputy Speaker, Sir. While I appreciate your ruling, I also wish to seek the indulgence of the Chair. Given the mood in the country, this morning, quite a number of us failed to ask our Questions because of the excitement in the country. For the first time, we have a leader of a great country in this world whose blood is Kenyan. For that matter, would I be in order to request you to allow me to ask my Question since I did not ask it in the morning.

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

**Mr. Deputy Speaker:** Order, Ms. Odhiambo! The Chair of the Kenya National Assembly is on its feet. So, order.

Mr. Affey, you approach the Chair and seek if you want a reinstatement of your Question in the formal manner, practice and traditions of this House. The Chair has got some communication to make. As far as the interest and happiness regarding the elections that have just been concluded in the United States of America are concerned, this will put that to rest.

## COMMUNICATION FROM THE CHAIR

### CONGRATULATORY MESSAGE TO PRESIDENT-ELECT BARRACK OBAMA

Hon. Members, as you may be aware, the people of the United States of America have just had a historic election where the son of this soil, Barrack Hussein Obama, has been elected the 44th President of the United States of America and the first African-American President in the history of that country, please join me in registering and sending this House's congratulations to the President-elect Obama for overcoming great odds to emerge victorious.

Indeed, this is a testimony of the democratic practice in the United States of America that we, in Kenya, can also emulate. I also wish to congratulate his opponent, Senator John McCain, for conducting a dignified campaign and statesmanship in his conceding speech. It is our hope that with this change, the USA and the world will be placed on a different trajectory and this will strengthen international co-operation and forge closer partnership between the USA and other nations in the continent, particularly Kenya.

I also wish to bring to your attention that the President of the Republic of Kenya, His Excellency President Mwai Kibaki, has declared tomorrow Thursday 6th November, 2008, a public holiday in honour of the election of Senator Barack Hussein Obama. Please, join me in thanking his Excellency President Kibaki for this early gesture and correctly reading the mood of not only the country but the whole world. On my behalf and that of this House, I would like to congratulate and give best wishes to Senator Barack Hussein Obama.

*(Applause)*

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, while thanking you for that Communication from the Chair, I want to join the rest of the world and, indeed, all of us - and it is understandable that the rest of African Continent and the whole world is celebrating a dawn of a new era--- As we congratulate the American people and more, specifically, Senator Barack Obama who is now President-elect, it is important to reflect on the journey that he has travelled so far. When countries get their foreign policy right, a lot of hope can ensue. What I have in mind is the famous Kennedy airlifts of the 1960s when many Kenyans were, due the friendship with the then Government and the late Tom Joseph Mboya, given the opportunity to travel to the United States of America as a result of [**The Vice-President and Minister for Home Affairs**]

which we now have an African American of Kenyan origin being President-elect. This is momentous. At 4.00 o'clock this morning, Senator

John McCain graciously conceded defeat. I was among the first Kenyans - as I know many Kenyans did not sleep but were following the outcome of those elections - to congratulate the President-elect. While doing so, I also observed that the world will now be a safer place under the Presidency of Senator Barack Obama. The world will not continue to observe American unilateralism. Some of us held the view that the war in Iraq was a mistake because the United Nations Security Council did not give its approval. The rest of us in Africa stood in solidarity and said that it was important to have a UN Security Council whose responsibility is to ensure world peace and security. Be that as it may---

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

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, I am just responding to your Communication from the Chair. I am sure that my good friend, Mr. Ethuro, can bear---

**Mr. Deputy Speaker:** Proceed!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Thank you, Mr. Deputy Speaker, Sir. I am just about to conclude. The point I am making is very important. There are many of us who hold the view that there is now a real possibility of a more peaceful world where multi-lateralism, as opposed to unilateralism, will guide the conduct of international relations under President Barack Obama. We congratulate Senator John McCain for being graceful and I think we are rightfully in a party mood. We are not the only country in the world. There are parties in Paris, London and even in a place called Obama in Japan. I think we have a right to celebrate. As we do, as you said from the Chair, this is a sovereign country. We know we can learn a lot. To be able to support that blood relation, I think we owe it to ourselves to make sure that we have a peaceful country as Kenyans; a country that will uphold the true principles of the rule of law, democracy and tolerance between ourselves.

At the beginning of this year, Senator

Barrack Obama called me at midnight and told me: "Mr. Vice President, could you make sure you sort out this problem?" I want to assure him that the problem has since been sorted out.

*(Several hon. Members stood up)*

**Mr. Deputy Speaker:** You are all out of order!

Next Order! Order! Hon. Members, when the Chair makes a Communication from the Chair, no debate follows. The Chair has ruled on that. Whereas we appreciate that we are all excited, we celebrated victory last night. There is no debate about that. However, indeed, we have procedures and an institution to respect.

Next Order!

### POINT OF ORDER

#### DESTINATION OF HIJACKED UKRAINIAN SHIP

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I notice that the Minister for Foreign Affairs, Mr. Wetangula, is here. For two weeks, he has been avoiding to bring to this House a Ministerial Statement in respect of the cargo ship that was hijacked on the high seas of the Indian Ocean. I request him to respond.

**Mr. Deputy Speaker:** Hon. Wetangula, you gave an undertaking to this House.

**The Minister for Foreign Affairs** (Mr. Wetangula): Mr. Deputy Speaker, Sir, first of all, it is unfair for Dr. Khalwale to [**The Minister for Foreign Affairs**]

say that I have been avoiding to issue a Ministerial Statement. I have not avoided. I cannot avoid my responsibilities. I have been travelling and now, I am back. I would like to seek your guidance. This matter is before a Committee of this House, the Foreign Relations and Defence Committee. Indeed, yesterday, I appeared before the Committee and engaged in exchange of views on the same issue. I think under our Standing Orders, the matter is stopped from being discussed on the Floor of the House until the Committee concludes its findings and brings the report to the House. If you direct

otherwise, I can bring a Statement. But I think I am right in quoting the Standing Orders.

**Mr. Deputy Speaker:** Hon. Members, indeed, the Chair has again given direction on matters that touch on our own national security. There is no way that any dignified sovereign state can discuss the worst of its Intelligence Service and defence forces. That is matters touching on its defence in the manner that seems to be taking shape in this House. Hon. Members, this matter is with the Committee and even if it was to come to the plenary of the House, it would be done in camera. That is the tradition. So, under the Standing Orders, Mr. Minister, you are under no obligation to bring a Ministerial Statement in this House until the matter is concluded and the right procedure is followed in protecting our own national security.

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Deputy Speaker, Sir. Indeed, the Statement I was going to bring was going to be a one-line statement. I was going to bring to the attention of the House the provisions of Cap.6, Section 18(3), which is very clear.

**Mr. Deputy Speaker:** Order, Mr. Minister!

**The Minister for Foreign Affairs** (Mr. Wetangula): I am just fortifying what you have said, Mr. Deputy Speaker. The law is very clear and if you demanded that I bring a statement, I was going to do it and fortify your argument.

**Mr. K. Kilonzo:** Mr. Deputy Speaker, Sir, I am getting disturbed by the way we are doing business in this House. You stood up and ruled that the next Order be read out. The Clerk-at-the-Table did so. We have flouted our own rules and gone back to discuss Ministerial Statements.

**Mr. Deputy Speaker:** Order, Mr. K. Kilonzo, when an hon. Member rises on a point of order, whether we were to move to the next Order or not, there is an assumption that there is something that the hon. Member wants to draw the attention of the House to. That is what has happened.

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

**Mr. Deputy Speaker:** Order, Mr. Ethuro! You are out of order!

Next Order!

### MOTIONS

#### INTRODUCTION OF BILL TO AMEND SECTIONS 58/59 OF THE CONSTITUTION

THAT, this House do grant leave to introduce a Bill to amend Sections 58 and 59 of the Constitution of Kenya to provide for the National Assembly to control the calendar of business in the House.

*(Mr. Ethuro on 29.10.2008)*

*(Resumption of Debate interrupted  
on 29.10.2008)*

**Mr. Deputy Speaker:** Who was on the Floor? Hon. Murungi had seven minutes. Is he in? Proceed, Mr. Kabando wa Kabando!

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Thank you very much, Mr. Deputy Speaker, Sir. I rise to support this Motion, which is very timely and well considered.

Mr. Deputy Speaker, Sir, having the opportunity, as a House, to control our own calendar and ensuring that we prioritise the agenda of the House--- That agenda should be in the control of the representatives of the people. That is very important.

Mr. Deputy Speaker, Sir, before I proceed, perhaps, I should take this opportunity, as the Member of Parliament for Mukurweini, to congratulate the President-elect, Obama. Indeed, even though the Chair did make that ruling, it is important to notice that this matter is of serious importance.

Mr. Deputy Speaker, Sir, one of the issues

that is crucial to the development of a nation is the confidence among the people. It is the inspiration among the people. It is the spirit of optimism to go forward. We have to appreciate that, as a House, we are very encouraged by what has happened in the USA. The country is very excited. That is very important. It is a way of giving encouragement.

Therefore, Mr. Deputy Speaker, Sir, as I contribute to support this Motion, let me say that towards achieving Vision 2030, we need the flagship that has been documented to be stated clearly in the agenda of the supreme organ of law making and policy state in this country. The Vision 2030 flagship include areas of enterprise that hedge on new creativity. For instance, it has flagships on the youth issues; the issues of agriculture and for reasons, the pending Government agenda, including the Coffee Bill that will ensure that we have global instruments and benchmarks that are necessary to ensure that, that cash crop is marketed, its production well managed and that leadership in Africa is good. That also relates to all other sectors in the agricultural sector.

Mr. Deputy Speaker, Sir, the livestock policy is pending in this House. Again, we should look at areas that will create a wider path to ensure that investments that traditionally did not bring a lot of benefits to the people, do bring unprecedented benefits. We have pending business on Information, Communication and Technology (ICT); the Bill that seeks to entrench ICT as a platform for change and development. In this country, we know that tourism is a key sector that brings in foreign exchange and creates employment.

Mr. Deputy Speaker, Sir, the Tourism Bill is pending in this House. That Bill is aimed to promote the tourism policy to ensure that the sector is professionally managed, realizes multiplied benefits and that the nation itself benefits more fundamentally from that sector. Therefore, to have the opportunity, as a House, to control our calendar will be a basic responsibility. It is basic because this House has a strategic plan. Hon. Members are required, at the constituency level, to have strategic plans;

to have an arrangement on how they will engage stakeholders, their voters and their development committees all the way to the sub-locations. Those strategic plans will require work plans, quarterly reviews, evaluations and monitoring mechanisms. If those efforts have to succeed, the House itself should have an overall plan. That plan will not be possible if we do not have the control, the capacity and the independence to direct, audit and to prioritise the agenda that we need to put in this House.

Mr. Deputy Speaker, Sir, as legislators, we do need to also set our diaries to ensure that, annually, we know what is going to come, rather than the sporadic entries of important issues that may disrupt our engagements with our constituents and also, for some hon. Members, their engagements with their Ministerial responsibilities. The Committees of this House need to go out and connect.

Therefore, Mr. Deputy Speaker, Sir, [**The Assistant Minister for Youth Affairs and Sports**]

I support this Motion because it is based on a special and basic need; that this House needs the independence and discretion that will enable it to enact laws that are the foundation to ensure that the flagships of Vision 2030, which include women issues, diversification of resource generation, mainstreaming of the youth and the young people in the management and leadership of this country are concerned. That is very important.

Mr. Deputy Speaker, Sir, although you have ruled, I want to touch on what has happened in the USA. I want to repeat that as I conclude. Kenyans need inspiration and optimism today more than ever before. Any opportunity, may it be local, domestic or international, that can accelerate or instigate that optimism--- Any opportunity and occurrence that may be happening outside this country that will challenge this nation and hon. Members on their commitment and belief to issues of nationalism is very important!

Mr. Deputy Speaker, Sir, it is Martin Luther King who said:- "Changes in the world are not brought by the complacent adjustment of a conforming majority, but by the courageous mal-adjustments of the non-conforming

minority."

*(Applause)*

Therefore, Mr. Deputy Speaker, Sir, it is good, as an hon. Member of Parliament, because we are supposed to also have the independence to question--- Although the Chair is not always questioned, when it makes a statement based on an issue that has been raised by an hon. Member as a matter of national importance, and then you hold the House spellbound and eloquently issue a Communication from the Chair, it goes a long way to show that you are saying the same thing.

*[Mr. Deputy Speaker left the Chair]*

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

Therefore, Mr. Temporary Deputy Speaker, Sir, as I said when the House was going on recess in April, it is important for us to harmonise our issues and see ourselves as belonging to one community of Kenyans. What has happened in the USA--- Not long ago, Obama was not appreciated by everybody. But today, he has united the spirit of Kenyans.

Mr. Temporary Deputy Speaker, Sir, today, in the evening, I have been invited to seven parties by Kenyans living in this City, who want to celebrate in their individual ways; they are inviting friends to join them and prolong their celebrations. I know that this is going to happen in every township.

I want to congratulate, again, Mr. Ethuro, whom I have cited in a number of meetings, including in two meetings in my constituency last week, as one of the bright hon. Members of Parliament, the alumni of Havard, where Mr. Obama went, who is courageous and able in his Questions and Motions. He is very creative and it is good to notice that. I say this because Mr. Ethuro is on a mission to bring unprecedented issues in the House that will enable us to think. Therefore, it

is important that we control our calendar. However, it is also important that as we control our calendar and celebrate the victory of Mr. Obama, to also say in one voice that we do not go back to our cocoons, or ethnic groups. We should not even go back to our region-based political parties or petty platforms of alienation and demarcation. That is why we are also courageously saying that if anybody has committed a crime in this country, whether that person is an hon. Member, a party leader or whoever it is, they should carry their cross, because it is important for them to learn from the lessons emanating [**The Assistant Minister for Youth Affairs and Sports**]

from Chicago in the USA. They should not go to their tribal group and say that they need to enjoy impunity and immunity from law. Take your responsibility and if you committed any crime in the name of political power or party, pay for it!

With those few remarks, I beg to support.

**Mr. Wamalwa:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. This morning, history was made when a young man was elected to the highest office in the USA.

*(Applause)*

Mr. Obama beat two veteran senators: The Senator of New York, Mrs. Clinton in the primaries and this morning he beat the Senator of Arizona, Mr. McCain, to become the President of the USA. We are celebrating because he overcame great odds, and as we speak, he has become the leader of the free world. He could only do so because of institutions. Great institutions that have been established over 200 years by the American people to embrace democracy. That is why a young man who, in spite of his age and inexperience, in spite of the colour of his skin, his tribe and descent, was able to win the elections that were truly historic.

Last Sunday, I also witnessed the swearing in of the President of Zambia in Lusaka, His Excellency, Mr. Banda, and though the victory was narrow, only 30,000 votes separated him from Mr. Sata, the opposition leader, there was no violence. There was peace in Lusaka and Zambia; the

institutions that exist there enabled the people of Zambia to realise their democratic rights. I cannot say the same situation applies to our country. We all know what happened at the beginning of this year and it was as a result of weakening of institutions over years of an imperial presidency, where power was concentrated in the presidency. In the process, there was a gradual weakening of other institutions, resulting in an overbearing Executive and a feeble Judiciary. The Electoral Commission of Kenya (ECK) that was not independent made possible the violence that we saw. As we speak today, we are a country in a crisis. We are in a crisis in the sense that our institutions are in a crisis to the extent that Kenya almost became a failed state. Therefore, for a Motion like this one, I must congratulate my hon. friend, Mr. Ethuro, for bringing it. I must also congratulate Messrs. Keter, Oloo-Aringo and all those who attempted before him to bring this Motion, so that we can strengthen the only institution.

Mr. Temporary Deputy Speaker, Sir, I dare repeat that this is the only institution in Kenya today that has the confidence of the Kenyan people. In recent results, where polls were taken, indeed, the Speaker of the National Assembly, was the only leader of an institution who got the highest endorsement of the Kenyan people; Seventy per cent of Kenyans indicated that they have confidence in the Speaker and the Tenth Parliament. Therefore, we must, as hon. Members of the Tenth Parliament, support this Motion to strengthen this House by ensuring that Parliament has an independent calendar controlled by none other than Parliament itself. Indeed, we talk of the supremacy of Parliament, but it cannot be a supreme organ if it operates at the beck and call of other institutions. We do not know when it shall be convened or when prorogation shall be ordered. It is a matter of vital national importance that we ensure that the amendments proposed to Section 58 and 59 of the Constitution of Kenya are effected and Parliament is able to have a fixed calendar and operate independently.

I believe that we are making great progress in this nation. I can say that yesterday this House passed the Bill for the Constitutional Review, setting a road map [Mr. Wamalwa]

that will, at the end of the day, put the review of our Constitution back on track. But still, we have had several attempts at this. For several decades since the 1990s we have attempted to give Kenyans a new Constitution, but we have not succeeded. Indeed, even after this road map, we are not sure that Kenyans are going to get a new Constitution within one year as was promised. But the surest way is not to wait for a day when a miracle will happen and we give this country a new Constitution but to start, block by block, working on this Constitution; doing what we did at the beginning of this year in March when we amended our Constitution to introduce, and give effect, to the National Accord. We have, today an opportunity - we do not have to wait to embark on this journey. We have the opportunity to deal with Sections 58 and 59 and we can do that through this Motion.

Mr. Temporary Deputy Speaker, Sir, we also have the situation at the ECK. We do not have to wait for a comprehensive review of this Constitution. We can, after dealing with Sections 58 and 59, deal with Section 41, because Kenyans have spoken, the Gallup opinion polls have indicated, Krieger has spoken that, indeed, if there is an institution that has suffered the loss of confidence, it is the ECK. We do not want to wait for a year to deal with it. After we clear with this Motion by Mr. Ethuro, I think the next Section of our Constitution is Section 41.

The other institution that has suffered loss of confidence is the Judiciary. We had the chaos at the beginning of the year because the aggrieved parties had no confidence in our Judiciary. They could not have grievances addressed by the Judiciary and, therefore, they took to the streets. Look at what it has cost this country! We do not have to wait. We have to start looking at Sections 60, 61, 62 and 68 of our Constitution, so that we deal with the issue of the Judiciary after the ECK. These are areas that we need to start applying our minds to. We do not have to wait for the magic wand to say: "Now, the road map is ready! Now,

the comprehensive review is being done". Let us go step by step. By the time we get there, we will have dealt with the essential sections of our constitution.

I really support what others have supported, including the Law Society of Kenya (LSK) about an incremental amendment of our Constitution.

Mr. Temporary Deputy Speaker, Sir, we do not have to wait. It is a long journey. We can go step by step and let us support this Motion so that we begin dealing with Sections 58 and 59.

Mr. Temporary Deputy Speaker, Sir, there are also other sections that need urgent attention like Section 42. This is to allow for constituencies boundary review. That does not have to wait. We also have issues touching on independent candidates in Section 34. There is the issue of dual citizenship in Section 97. We do not have to wait. Indeed, as we begin this journey today, we want to ask ourselves whether we can put our institutions back on their feet. The first and foremost institution that remains intact is this Parliament and this is where we must begin. We must ask ourselves whether we can have a new Electoral Commission of Kenya (ECK) that can command the confidence of all Kenyans. We must be inspired by the words of Barack Obama who said: "Yes, we can". We can do so without waiting for a year or two to deal with these issues in the manner that Mr. Ethuro has proposed. We can look at the Judiciary because it is in crisis. When you hear lawyers putting petitions to the President that they have lost confidence in the Chief Justice, then we must realise there is a crisis.

Mr. Temporary Deputy Speaker, Sir, these are issues that cannot wait and we do not have to wait at all. I would like us to appreciate the words of a professor of law, Professor Weeramantry who wrote a book: *The Law in Crisis*. The good professor

[Mr. Wamalwa] indicated that many a times in the human history, great societies have collapsed because of failure to realise crisis situations that

operated in them. We must begin by asking ourselves: Is the crisis situation in Kenya such as the good professor talked about? If we do so, we should start by dealing with the institutions.

Thank you, Mr. Temporary Deputy Speaker, Sir. I support this Motion.

**The Assistant Minister for Higher Education, Science and Technology** (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to support this very important Motion by hon. Ethuro. This is a matter that has been spoken about in the last few parliaments and it is very unfortunate that during the last Parliament, because of partisan type of politics which were organised around certain political parties, which also happened to be ethnic, we were not able to deal with a lot of important matters that would have been for the interest of us as Parliament but the people of Kenya as a whole. So, we lost the opportunity to make a lot of important changes because of the way we thought of ourselves and cocooned ourselves in our tribal political organisations.

Mr. Temporary Deputy Speaker, Sir, in the US, they already know when they are going to have the next elections for the President but they also know when their parliament is going to be opened. For us, the problem has been that we have personalised a lot of these decisions. It is a question of not being transparent and not wanting to say the truth about the way we want to do our business so that it goes to a point where even the President would set the date of elections or say: "when I am going to prologue Parliament, is going to be my secret weapon". President Moi said that all the time and it was his way of not being very open with the Kenyan people and potential Members of Parliament in terms of giving us that opportunity to decide our trade as parliamentarians and Kenyans.

So, when you do not have that transparency, it means that there are certain issues that you want to cover up in terms of wanting to prepare to rig. Covering up in terms of not allowing for enough time for preparation of elections so that even the ECK is not ready. We may blame them but also, sometimes, they were

given no opportunity by the powers that be. They did not have the authority to decide when the elections would take place because they never knew themselves when they would announce when we would have to go to the polls. That is why there were many challenges in court. We have heard several times when people had to go to court to challenge situations that had been made regarding even the date for elections and the reconvening of Parliament.

Mr. Temporary Deputy Speaker, Sir, the point has been made that a lot of this has got to do with the structures. That we have to have structures in place so that it is never about individuals and people belonging to certain political parties but it is about structures being in place that govern the way that we make important political decisions.

Mr. Temporary Deputy Speaker, Sir, in this regard, therefore, we also need to see ourselves as depersonalising. You know, making it not a personal matter to decide when we open parliament, when we decide to announce the date that we have to go to the polls and it should not be a matter of the ethnic group or the political party that the person in power belongs to because they then have to make decisions in favour of everybody else but not their opponents.

Mr. Temporary Deputy Speaker, Sir, as we make those changes, we also need to make changes that will make it possible for us to have other relevant dates. For example, already the Americans know when Barrack Obama is going to be sworn in. He is not going to be sworn in just tomorrow or the day after or in some place after some **[The Assistant Minister for Higher Education, Science and Technology]** very thick arrangements. The date is known and we again have experienced this several times of our previous government where it is like a guarded secret when and where the President is going to be sworn in. That creates a lot of problems and I think from our own experience of the last few governments, we could have avoided a lot of trouble if there was a lean time between the day elections are

announced and the time that we have to swear in the President because you will give room for many questions to be answered that are relevant and for people to take necessary action in preparation for that day but more importantly for those that want to seek redress to know that they can indeed, challenge any outcomes. That, we do not give ourselves--- The point I am making is that we are not talking about the calendar of Parliament but be seen in the context of other structures that relate to our Parliament.

Mr. Temporary Deputy Speaker, Sir, the point also has been made about the fact that it will not be enough to have a calendar for our Parliament if we do not make necessary changes with regard to the structures that support Parliament including the ECK. There is also the point that was made by hon. Wamalwa about constituencies boundaries and key decisions of the Judiciary and for us to have faith in it but more importantly for ourselves as parliamentarians to change with the times. That is to change our attitude because it does not matter how many reforms we come up with if we do not accept those reforms and be part of the biggest advocates of those kinds of reforms, whether or not they favour us. So, there are many questions also about our not being partisan with regard to the political parties that we support and the positions that we take because they are ethnic. We have to support certain positions even in this Parliament because we stand to gain either directly or indirectly from those kinds of arrangements. If we do not want to be honest ourselves as Members of Parliament and do not forget that there are certain people that we have to owe allegiance to and even the structures that we represent, then it is going to be very difficult for us to even get to support some of these changes.

Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to also congratulate Barrack Obama on his victory and also say that even as we look at that victory say it is possible, it is only possible because there are structures in place in the US that make it possible for any potential candidate to win, irrespective of whether they have a lot of money which they have gotten legally or illegally, they are from a different

ethnic group and how old they are. It is very difficult to be a President in this country if you are below 50 years of age. It is because there are structures in place in the US that make it possible for you to come out from nowhere as long as you are good and be President. There are factors that have a lot to do more with merit that make it possible for that kind of person to become President of the most powerful country in the world. We should also begin to ask ourselves questions about what kind of changes we need to make in addition to controlling the parliamentary calendar that will make it possible for persons in this country to rise to the office of the President or be able to be a Member of Parliament not because they have stolen so much by way of public property or because they are able to cheat their way through but because there is something that is valuable about them.

It is not going to be possible just because we have structures. People and Members of Parliament must be prepared to look at merits and support them. They also need to contribute towards supporting that candidate. It was possible for Senator Obama, not because he had so much money of his own, but, because ordinary people and young unemployed youths, contributed [**The Assistant Minister for Higher Education, Science and Technology**] to that campaign. Is it possible, in this country, for a person to be a Member of Parliament if he or she does not have a great deal of wealth? It is not easy! Unless there is a way.

Mr. Temporary Deputy Speaker, Sir, we must get out of that tradition where we vote for a person just because they come from a political party that is supported by our tribal kings and that is the party we have to go through. We have to come out of that and select people on the basis of merit and support them. That would be the basis for the many of the changes we would like to see both in this Parliament, Government and other institutions outside of politics, including education, agriculture and so on. Until we begin to respect merit as the basis for our identifying future

leaders, it is going to be very impossible. It does not matter what kind of structures we have in place for an Obama to come out of the Kenyan environment.

I beg to support.

**Mr. Ogindo:** Thank you Mr. Temporary Deputy Speaker, Sir. I rise to support the Motion.

However, may I first take this opportunity, on behalf of the people of Rangwe to congratulate President-elect Senator Barrack Obama on his historic victory.

Mr. Temporary Deputy Speaker, Sir, it is very rare that you get somebody of Obama's calibre. I think that, that is a gift that nature has given to humanity. It is a gift that comes, maybe once in 50 years. I think it is a privilege for the Kenyan people to share part of Obama's history. It is on that account that I want to say, "Bravo Obama!".

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Could you proceed, Mr. Ogindo!

**Mr. Ogindo:** Thank you Mr. Temporary Deputy Speaker, Sir, for your protection.

Mr. Temporary Deputy Speaker, Sir, I also want to congratulate my predecessors on their very candid contributions towards this Motion. On my account, it is very timely that we move forward to establish the independence of Parliament. Without the independence of Parliament, I think we are not going to serve the purpose that we are here for. I want to point out that the impunity we have seen in this country is a function of discretion. It is very important that we reduce discretion. You reduce discretion by building stronger independent institutions.

Mr. Temporary Deputy Speaker, Sir, this House has the cardinal function of legislation. I think the architects of most of the institutions that we seek to build are in this House.

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

**The Temporary Deputy Speaker** (Prof. Kaloki): What is your point of order, Dr. Eseli?

**Dr. Eseli:** Mr. Temporary Deputy Speaker, Sir, from the time we started contributing on this Motion last week up to now, every

contributor has supported it. In fact, we are risking repeating ourselves to the extent that some speakers are now introducing extraneous matters. Am I in order to invoke Standing Order No.80(1) that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Prof. Kaloki): Dr. Eseli, I think you are ahead of time. We are almost there. Let us give the remaining time to hon. Members to complete their contributions in a minute!

Mr. Ogindo, please, proceed!

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, thank you for extending your protection.

Mr. Temporary Deputy Speaker, Sir, what we have seen before is that Parliament spends 60 per cent of its time discussing the Budget. Out of that time, we are not able to **[Mr. Ogindo]**

discuss the Budget exhaustively. I am glad that this House approved a Bill that seeks to establish a budget law. I want to ask this House to come out very strongly and support this piecemeal Bill that seeks to determine the Parliamentary calendar. It is from these little things that we secure our time and independence.

Mr. Temporary Deputy Speaker, Sir, you will realise that because of lack of independence, this country has gone through the worst of its time. What befell this country early this year was a result of impunity as exhibited by the Executive, especially totally disregarding the IPPG rules when selecting Electoral Commission of Kenya (ECK) commissioners. As a result of that, the country plunged to where it was.

Mr. Temporary Deputy Speaker, Sir, it is the responsibility of this House to ensure the independence of institutions namely the Legislature, Judiciary and ECK. If we do not seek to secure the independence of this institution, then we shall have failed the voters and the people we represent. It is on that account that I support this Motion.

Thank you.

**The Assistant Minister for Regional**

**Development Authorities** (Mr. ole Metito): Thank you Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this very important Motion.

First of all, I would like to take this opportunity to congratulate the Mover of this Motion, my good friend, Mr. Ethuro. I think this Motion should have been brought to this House yesterday. I would like to urge him to fast-track the preparation of the Bill once this House passes this Motion. It should not be like last time. I think this is the third time that this Motion is being brought to this House. However, it is yet to see the light of day.

Mr. Temporary Deputy Speaker, Sir, the most important thing about this Motion is that it tries to promote the principle of separation of power from the Executive and Legislature. This is enshrined in our Constitution and I think it is a high time that it be implemented by the amendment of Sections 58 and 59 of our Constitution.

Mr. Temporary Deputy Speaker, Sir, this House has a duty to legislate. It has a duty to represent people. It also has an oversight role. When we do not control the calendar of this House, there is going to be a vacuum just as it has been there before. There has been a vacuum in legislation, representation and oversight. This has been brought about by the frequent recesses that we go on; sometimes, we have unnecessary dissolutions and adjournments. Some of them are not foreseen by the House, because they are done somewhere else.

I think we cannot afford to have a vacuum in legislation. There should be no time when the people of this country are not represented. There should be no time when this House cannot oversee the Government. If we pass the Bill for this House to have a calendar, all these things will be in the past. Take the United States of America (USA); there is no vacuum at all, even in representation. In the House of the Representatives, there is no single day when it is dissolved. People are on campaign until the day of elections. This was well expressed in the just concluded election where somebody voted and went to campaign in other States. I would like to see this Motion passed, so that every time, we have

institutions in place.

Mr. Temporary Deputy Speaker, Sir, the other very important issue that this proposed Bill should address is the sequence of events. When we have the calendar for Parliament, the time for elections will be predetermined. We should also have the transition period predetermined. We should have a mechanism for predetermining the transition period. In most cases in Africa, elections are done and the office bearer is sworn in immediately. In Zambia, even before the [**The Assistant Minister for Regional Development Authorities**]

announcement of the winner was made, the Kenyan delegation was already flying to Zambia. Immediately the winner is announced, the swearing in is done immediately. I want to see a situation where events are predetermined.

In the USA, it is known that the first Tuesday of November after four years, there is going to be a presidential election and then the 20th of January of the coming year, there is going to a swearing in and the eventual taking over of office by the winner. That is a period of not less than three months. We should have put these things in our constitution when we were repealing Section 2A of the Constitution to pave way for multiparty democracy in Kenya.

I would like to support this Motion and ask that it should be fast-tracked for us to start implementing it.

**Ms. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity.

*(Mr. Ethuro consulted loudly)*

Mr. Temporary Deputy Speaker, Sir, could you, please, protect me from hecklers?

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

**The Temporary Deputy Speaker** (Prof. Kaloki): Ms. Odhiambo, please, proceed!

**Ms. Odhiambo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me. I want to start by thanking Mr. Ethuro for bringing this Motion that is absolutely timely

for this country. In supporting this Motion, I want to note that last year, I was in the USA in North Carolina, where I was speaking to at an international forum and I informed them that there was renaissance coming from Africa. I did not know how much it would be! I was talking about the election of the Liberian President as the first woman President in Africa. This year, we can talk about the election of the Rwandan Parliament that has the majority as women. The list goes on and to top it, is the famous event today of Mr. Barack Obama, who is the President-elect of the USA. That is something for us, as Africans, to be proud of and for Kenyans to be proud of.

That takes me to the second point, which is the issue of sovereignty. I am proud to be a Kenyan, and Kenya is a sovereign state. As a student of International Law, I would like to say that the concept of sovereignty has, in recent years, received a bashing and, therefore, changed in the light of globalisation. One of the things that affected it is the migration that has seen a lot of people migrating from African countries to the West, and Barack Obama is a product of that reality. If you go the USA now, we have many Americans who are called Irish Americans, Hispanic Americans and the list goes on. I want to proudly say that Mr. Barack Obama falls in the category of the ones that are called Kenyan-Americans. That is in keeping with sovereignty and reality. Therefore, as a Kenyan living in Kenya, I support a Kenyan-American.

Mr. Temporary Deputy Speaker, Sir, coming to the Motion at hand, I want to support it because it actually enhances the concept of separation of powers between the Executive, the Legislature and the Judiciary. This is an ill that has been in Kenya for a long time, where the Executive continues to wield power over the Legislature, even though it is meant to be independent. Therefore, if this Motion passes, it will give Parliament the autonomy that it needs, which is in consonant with the evolving democratic principles and international practice. I will not give examples due to lack of time.

I also want to talk about the challenges that we are facing as a country. For example, at the beginning of the year we had problems but we did

not fall. Barack Obama has spoken about change that we can believe in. I want to encourage **[Ms. Odhiambo]**

this country to embrace change that we can believe in. One of the changes that we need is what Mr. Wamalwa has said. We must make certain changes, even as we await the comprehensive Constitutional Review process. One of them is to enhance the number of women in this Parliament. Kenya is going to receive a lot of attention, but let it not be negative because we are the home of the President-elect of the USA. Let us receive attention for being pioneers and overtaking Rwanda and other countries that have promoted the issue of women rights.

With those few remarks, I beg to support.

**The Assistant Minister for Defence** (Maj-Gen. Nkaisserry): Thank you, Mr. Temporary Deputy Speaker, for giving me this chance to contribute to this very important Motion.

First of all, I would like to take this opportunity to commend hon. Ethuro for bringing this very important Motion, which is long overdue. Secondly, I would like to take this opportunity to congratulate the American people for making their decision this morning and elected Barack Obama as the President of the United States of America. Thirdly, I would like to congratulate hon. Obama for being elected as the President of the United States of America. In 2006, I had an opportunity to share lunch with the President-elect of the United States of America at the Tamarind Restaurant. I, therefore, cherish the memory of that time.

Mr. Temporary Deputy Speaker, Sir, we have the opportunity and freedom to change. This is the time we need to change the Constitution so that the power is restored to the people of Kenya. Power should be restored to the people of Kenya because Parliament is the centre of the people of Kenya. There are three roles of this Parliament. The roles of oversight, representation and legislation are all combined. That gives this House the power on behalf of the people of Kenya. Therefore, Section 58 of

the Constitution which allows one individual to summon the peoples' representatives without their wish and will, should be done away with. At the same time, Section 59 of the same Constitution dismisses the peoples' representatives that are brought here by the people themselves at the will of one individual. We have to change. That is the freedom to change and that freedom is here.

Mr. Temporary Deputy Speaker, Sir, the issue of impunity has actually ruined this nation. There is the impunity of the Executive, impunity of corruption and impunity of violence. We have to end that impunity for our country to be liberated. I want to say that we had passed a Motion that empowered Parliament to scrutinise the Budget. That is already a power that has been restored to the peoples' representatives. Just imagine what happened at the beginning of this year. This Parliament was summoned when the country was in crisis. That is why I commend my friend hon. Ethuro for bringing this Motion, so that it is the peoples' representatives who have the power to summon themselves, and not one particular individual.

Mr. Temporary Deputy Speaker, Sir, on the issue of impunity, you realise that the Waki Report came out very clearly. Of course, there were some flaws in the report. But for us to forgive each other, heal this country, know that forever, we shall not bring this country back to its knees like what happened in January, we have got to carry our own crosses. People must be given the opportunity to defend themselves. We cannot condemn people unheard. That is why we are saying that the envelope with Dr. Koffi Annan should be opened. The people of Kenya should be told who are in there. People who are in that envelope should defend themselves. If there is forgiveness to be given, it should come from Kenyans. So, the freedom to change is here. **[The Assistant Minister for Defence]**

The freedom to change is with the Tenth Parliament, to restore the rights, freedom and power to govern, legislate and play our oversight role. The Tenth Parliament has that opportunity.

Mr. Temporary Deputy Speaker, Sir, I would like to urge that when this Motion is passed, it should be given priority so that we can amend

the Constitution to remove the two Sections and restore the power to the peoples' representatives.

I believe that the democracy that we have fought for, from the time when Section 2(A) of the Constitution was repealed to bring in multi-party democracy in this country, is a continuous process to ensure that Parliamentary democracy takes root in this country. That is the only way we can remove the impunity of corruption. I want to specifically comment on two issues. What happened in this country in December was not caused by politicians. It was caused by people who rigged the elections. If Parliament was in a position to control its own calendar, the rigging of the elections would not have taken place. Rigging of election was done by the agents of the Government. Those agents of the Government should actually be the first people who should have been in the Waki Envelope and not the politicians. When that thing happened, agents of the Government authorised serving civil servants to act as agents of political parties. That is the impunity we have to kill for this country to heal.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to my good friend, Maj.Gen. Nkaisserry, I heard him say that some agents of the Government actually participated in rigging and they should actually appear in that "envelope". Am I in order to ask him to give us the list of those people who are in the "envelope"?

**The Temporary Deputy Speaker** (Prof. Kaloki): Mr. Kamama, we do not want to get out of today's Motion. Maj.Gen. Nkaisserry, could you stick to the Motion before the House?

**The Assistant Minister for Defence** (Maj-Gen. Nkaisserry): I am not saying that it is the agents of the current Government, if my friend got me right. I am saying "the agents". The agents can be anybody.

**The Temporary Deputy Speaker** (Prof. Kaloki): Could you stick to the Motion?

**The Assistant Minister for Defence**

(Maj-Gen. Nkaiserry): Thank you, Mr. Temporary Deputy Speaker, Sir. I will stick to the Motion.

Mr. Temporary Deputy Speaker, Sir, in conclusion, it is important that this Parliament unites in ensuring that the constitutional reforms, which are part of this Motion that we are discussing today, will lead towards a new Constitution for the people of this country. It will help in healing this country. It is the onus of the Tenth Parliament to deliver to the people of Kenya.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, I would like to call upon the Government side to respond. Mr. Mungatana will respond on behalf of the Government.

**The Assistant Minister for Medical Services** (Mr. Mungatana): Thank you, Mr. Temporary Deputy Speaker, Sir. Before I give the Government's response to this Motion, I want to donate five minutes to hon. Kamama. Then, I will take the rest.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Thank you very much, Mr. Temporary Deputy Speaker, Sir for giving me this time. I also want to thank my colleague, Mr. Mungatana, for donating the time.

Mr. Temporary Deputy Speaker, Sir, I wish to fully support the Motion by hon. Ethuro that Parliament must actually be

**[The Assistant Minister for Higher Education, Science and Technology]**

made independent. It must never operate at the whims of the Executive. But just before I go into the details of my contribution, I also want to join my colleagues in congratulating the President-elect of the United States of America, hon. Barack Obama, for being elected as the first Afro-American President in that country. It was really exciting to all of us. It is really an inspiration to most African children that, indeed, they can make it.

Mr. Temporary Deputy Speaker, Sir, hon. Obama will bring a lot of changes. I am very sure that terrorism will reduce substantially. I am sure the entire American foreign policy towards the Middle East and Africa will be favourable. It is not

going to be business as usual. I also want to pay tribute to the late T.J. Mboya for organising an airlift. That was a visionary leader and if he did not do this, we would not be celebrating the success of our brother, Obama from Kogelo.

Kenyans have asked for a new Constitution from 1992 up to this time. Kenyans have lost their lives in search of a new Constitution. We needed a new Constitution yesterday. I am happy that the Grand Coalition Government is for a new Constitution. But just before we do that, we want piecemeal legislation. Sections 58 and 59 of the Constitution need to be amended, so that this House can be independent. Just to paraphrase what Hon. Obama, the President-elect, says, "change goes to Washington, Washington cannot change itself". I want to say that State House cannot change itself. This House must change State House. I want to ask the hon. Members to let us move with speed and encourage hon. Ethuro to come up with the Bill as soon as possible. We want the House Business Committee to prioritise this agenda as an immediate agenda of the House, so that we can make Parliament independent.

Mr. Temporary Deputy Speaker, Sir, we have a good President at this point in time. At some point in future, we may end up having somebody like the late Abacha. You can imagine what somebody like Abacha can do to this country. We do not want this House to actually be tossed up and down by a sitting President. We want it to be independent. We also want the principle of separation of powers to be looked into. We are told that the Legislature, the Executive and the Judiciary have separate powers. That is actually not in practice. We know that the calendar of Parliament is decided by the whims of the President. The President can decide to dissolve Parliament or change its sitting dates. In fact, I remember a former President who used to say that the election date was his secret weapon. This issue of a secret weapon must be brought to a stop. The methodology of doing it is by passing this piecemeal legislation.

I think all of us will support this

Motion. If we have a Member of Parliament who is opposed to it, then we are talking about sycophants. That is going to be sycophancy in this House. We need to support it, whether we are from the Government side or from whichever side. We do not even have an opposition in this House. We are all in one Grand Coalition Government. So, let us support the Motion because nobody is in the opposition.

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

**The Assistant Minister for Medical Services** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to thank hon. Ethuro for moving this Motion. This is a constitutional Motion. On the Government side, we are of the opinion that, right now, we are completely committed to getting a new Constitution for this country. Indeed, the House, yesterday passed the Constitution Review Bill that provides the review path in which we shall travel together as a country, towards gaining a new Constitution.

We, as a Government, support the [**The Assistant Minister for Medical Services**] view that there should be, indeed, some changes in the way we operate in terms of a calendar for Parliament. However, I think that it might be better if the whole thing comes as one package in terms of a proper constitutional change that we will all own and participate in the making of the same. There will not be a fuss in the event that the hon. Member brings a Constitution of Kenya (Amendment) Bill before the real constitutional change. We will support the independence of Parliament.

I say so because the road that we have travelled has been long. Today, I stand very proud as a Member of this Government and in particular of the Executive, to say that I support such a Bill. I have looked at our history and it is there for us to see what has been happening since Independence. There has been an inept desire on the side of the Executive to take control of Parliament since Independence. There has been a desire on the side of the Executive to abuse the principle of separation of powers. Therefore, the road that we have travelled has been long. Today, for me to

stand here on this side of the House to confidently support this Motion, indicates that we have travelled a long way.

Mr. Temporary Deputy Speaker, Sir, it is good to recall the history of this country. When the first President took over, there were clear attempts at trying to make Parliament not as strong as it should have been, so that the Executive could control it from outside. One of the things that happened very quickly with the presidency of the late Mzee Kenyatta was very quick negotiations to get the Kenya African Democratic Union (KADU) party and the African Peoples Party (APP) to go into quiet dissolution, so that the Kenya African National Union (KANU) could have a majority in the House and, therefore, control Parliament. This enabled the Executive to control Parliament.

We inherited a bicameral system of Parliament, but in 1966 there were a lot of negotiations initiated by the Executive, coupled with constitutional amendments, to try and emasculate Parliament. The Constitutional amendments took place and the two chambers of the bicameral Parliament then merged into one National Assembly. The 41 members of the Senate, the Upper House then, were then forced to vacate from the Upper House and accommodation was sought for them at the National Assembly. That was a process of emasculating Parliament. It was a clear attempt by the Executive then to try and make Parliament a weak institution that could be moved at the whims of the Executive. It was not the end of that. Earlier on, under the first presidency of this country, we saw the firing of the first Vice-President of this country. That was against the background of formation of a political party, the Kenya People's Union (KPU), that was opposed to the control of Parliament by one party system. After the first Vice-President was fired, the second Vice-President was appointed in about ten days. The appointment of the second Vice-President in such a short time shows clearly that no one was sad about chasing away people who were threatening the control of the Executive on this House. The Third Parliament

was dissolved on 20th September, 1974. On 8th November, 1974, the general elections for the 4th Parliament were held. The one thing that happened in that 4th Parliament which made negative constitutional history in this country on 9th June, 1982, was the enactment of the constitutional amendment that converted Kenya into a *de jure* one party state.

Mr. Temporary Deputy Speaker, Sir, what we are doing now in terms of trying to travel from the first presidency to the second and third presidency, is that we cannot really complain of much constitutional interference in parliament. Some independence has been gained. We have travelled a long path since the time of the first presidency, the term of Nyayo era [**The Assistant Minister for Medical Services**] and this term that we are living in. As other previous speakers have said, we must consolidate the gains that we have made. We must consolidate the gains we have made against the Executive so that we can say that Parliament is the supreme organ of the supreme will of the people of Kenya as expressed through their ballot.

I believe with all my heart that we should support this Motion. As I have said, the Government supports this Motion. The only issue is that we should have an independent calendar and control the way we go and when we come back. We should all know when our term ends. We should all know who will be the next President or Prime Minister as we will decide in the Constitution. All Kenyans should know, so that it is not a question of one person knowing. Parliament should control its calendar.

The question that we may need to address ourselves to is: Do we want to do incremental changes to the Constitution or do we want to contain it in the proposed constitutional amendments that the country needs to travel through? The Government and the Official Opposition support this Motion. We would have preferred a situation whereby we tackle the whole thing together. However, if the hon. Member is able to bring the Bill before we achieve the whole constitutional review regime, then we will be able to pass it in this House.

Mr. Temporary Deputy Speaker, Sir, the

Government supports this Motion.

Thank you.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, I will now call upon the Mover, Mr. Ethuro, to respond.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, while I am ready to respond, I need your guidance in terms of the time. The Mover usually responds at the very end and I can see that there are a few more minutes to go and there are hon. Members who are interested in contributing. I do not want to donate my time. They still have their own time.

**The Temporary Deputy Speaker** (Prof. Kaloki): You can donate your time to one or two hon. Members.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I can do that. I am saying that there is still time on your side which you can give to them without me donating mine.

**The Minister of State for Development of Northern Kenya and other Arid Lands** (Mr. I.E. Mohamed): Thank you, Mr. Temporary Deputy Speaker, Sir. First and foremost, I want to congratulate Mr. Ethuro for his able leadership in this issue. It has also occurred within a period where something momentous has happened in the world. I want to join the previous contributors in congratulating the American people for showing the resilience of democracy and the faith that we can have in democracy.

I think there is a great lesson in what happened in America last evening in which Mr. Obama was elected the President of the United States of America. The greatest lesson of that is what this Motion is trying to bring about. If you have strong institutions, you can have your bad moments but the country will always triumph. I think we should all support this Motion in order to strengthen the institutions in our country.

Mr. Temporary Deputy Speaker, Sir, if there is one lesson we can learn from Obama being elected as the first African to the presidency of the United States of America is that courtesy of having very strong institutions that would allow that. We want every hon. Member, irrespective of their tribes, to be

elected anywhere in this country in the future. I want to be elected in Central and Nyanza provinces in a few years. That can only happen if we create institutions that are strong and robust. For that reason, I would like us all to support this Motion. Parliament is the mother of all **[The Minister of State for Development of Northern Kenya and other Arid Lands]**

institutions and it should, therefore, be independent. It should have its own calendar which will ensure more efficiency. Any institution that controls its calendar can plan and deliver better.

I also support all the other speakers who said that we need comprehensive constitutional review. We owe it to our country and the future generations of this country. There is a great lesson to learn from the election of Obama in America.

Thank you.

**Mrs. Noor:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving this opportunity to contribute to this very important Motion. We witnessed history being made in the world last night and this morning when Americans elected an African-American who has roots in my motherland Kenya, to the highest office in the land. We also made history early this year by signing the peace accord. I know we can still make history by passing this Motion. This Motion is very important because it addresses the fundamental principles of separation of powers. Separation of powers between the Legislature and the Executive will give us the proper checks and balances that we require in this House and outside this House. External influence and control of this House has hindered the implementation of many issues. Before we went on recess - and you are my witnesses - this House had a very important agenda before it. Since we did not have control over the House, we could not address that important issue. The system structure will set us free. It will give us the capacity to address our issues and critically plan for ourselves. The world, all over, is taking a strategic direction in planning, organising, implementing and monitoring activities. It is reflecting back on crucial issues in the world. This House is not exceptional. We are not working in a vacuum. We must also critically set out our strategic direction, including the controlling of this

House. By controlling our calendar and giving ourselves capacity, we will be able to address critical issues that are affecting our people. We will be very effective in developing this nation. That is the only way we can effectively implement programmes of this House.

Thank you.

**Mr. Muriithi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I know I have a couple of minutes. Therefore, I will go straight to my point. First of all, I rise to support this Motion. I would like to say that this Motion provides us with a unique opportunity to really examine the system of governance that we want in this country. When you have a parliamentary system, you have an opportunity to bring the Executive to account. If we say that Parliament will have a unique fixed term, what happens to that opportunity? I think this Motion will give us an excellent opportunity to examine whether we wish to stay with a combination of a parliamentary and presidential systems, or whether we want to opt for a different system. We want to examine whether the checks and balances are working. It is in my view that we could have worked better. Allowing the hon. Member to bring a Bill to this House will provide us with an excellent opportunity.

Mr. Temporary Deputy Speaker, Sir, I want to add my voice to those who have spoken before me and say that we must take the opportunity to deal with the comprehensive constitutional review. That is what we promised this country. It is not just an issue of promise. That is what will build a platform for us to move this country into the future. The idea of a fixed calendar for Parliament must certainly be considered alongside the question of whether, in the future, the Government will be drawn from this House or not. I think that those are very significant issues that we must deal with, look at the systems in the world and ask ourselves: What will work for this great **[Mr. Muriithi]** nation.

Therefore, I wish to support.

**Mr. Chanzu:** Thank you, Mr.

Temporary Deputy Speaker, Sir, for giving me the opportunity to support the Motion to create a Bill to amend the Constitution, so that Parliament can run its calendar. However, before that, I would also like to join my colleagues who have spoken before me in congratulating the President-elect of the United States of America, Barack Hussein Obama. Those who have watched what has happened in the last few weeks have seen what it entails in terms of democracy. Those who have been criticising opinion polls, they have seen what they mean. Some Kenyans had spoken and said that opinion polls are misleading. However, they have seen what it means. If you are a good performer in whatever role you are playing politically--- I highly congratulate Obama and salute Americans, Black, White and other races, for what they have done in showing the world that a leader can come from any community. I also want to congratulate Kenyans for the support they have shown. It showed the Americans that we were supporting our own.

**The Temporary Deputy Speaker** (Prof. Kaloki): I now call upon Mr. Ethuro to reply.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I rise to thank all hon. Members who have contributed to this Motion. In agreeing, I would like to say: "Yes, we can". I cannot deny myself this golden chance that my Motion could not have come at a better time, than a time when the great America has a President-elect who has his roots in this great Republic of Kenya.

*(Applause)*

The only reason why America can have a President with roots from Kenya is because the American Presidential Election System has very clear principles and doctrines of separation of powers. This Motion is trying to ensure that we have a calendar of events that will make sure that the Executive does not monopolise the Legislature. As we celebrate Senator Barack Obama as President-elect--- We should know that he is only going to be referred to as President-elect until 20th January. Their time table is very clear that 4th November, is a day to carry out the elections. It has a tradition in rural America. They needed a

whole day to walk from Monday, because they were peasant farmers, to go and vote. Hon. Members should understand me. I will finish with the swearing-in. I am talking about how the election day was fixed. There is 4th November, which is set aside for the actual voting. It is a specified calendar and everybody, including every Senator and Governor, knows that. Every citizen of America knows when it is time to go for elections and when to campaign. Remember, you do not have to lose your job in order to campaign. Even Sarah Palin will go back to Alaska as the Governor. Yes, we can! In our own small ways, speaking from the Floor of the 10th Parliament, we can.

Hon. Members, especially from the Government side, I want to appreciate your support. We have also added that it would have been better if it came through a comprehensive constitutional reform system. That is all our wish. As I said when I moved this Motion, we have been waiting for the promise of a new constitution. We cannot wait any longer. If there is something we can do in the meantime, so be it. In any case, whose responsibility is this? Whose responsibility is it? Who has been given the mandate by the people of the Republic of Kenya to bring legislation, change the Constitution and administer this country properly, if it is not that side of the House? They have failed! We are only doing our part as Members representing the people to remind them that this is good. In **[Mr. Ethuro]** fact, if you noticed--- I want to thank hon. Mungatana because he has basically drawn from his previous portfolio, not the current one of Medical Services of inspecting hospitals and dispensaries.

Mr. Temporary Deputy Speaker, Sir, where is the Minister for Justice, National Cohesion and Constitutional Affairs to give a considered opinion? The Leader of Government Business told us last Wednesday that he could not answer certain Questions because he needed expertise and the specifics that can only come from the relevant Minister. I know that hon. Mungatana stepped in, and rightly so, and he did justice to it! I am also

sure, because he is recognising that the responsible Minister is the Party Leader of NARC-Kenya.

Mr. Temporary Deputy Speaker, Sir, this Motion is asking this nation to trust institutions; that no matter how good, how beautiful or how handsome our presidents may be, they can be subject to mood swings. In fact, if you get one who may decide one day he is just going to wake up and then he realises actually that he has power in the Constitution, not even in a law! In the Constitution - Section 59(a)! He may prorogue and, 59(b), he may dissolve! No reasons need to be given and all 222 Members, both elected and nominated, leaders of this country, can be sent home! It is only Ministers who are cushioned. They cannot be sent home immediately. That is why I am bringing another Motion where we are going to reduce the Cabinet size--- In fact, it will be a Bill because the Motion has been passed. I want to ensure that those predatory tendencies by the Executive are curtailed once and for all!

Mr. Temporary Deputy Speaker, Sir, I am excited to belong to the Tenth Parliament! I am excited that there is unity of purpose across the political divide, regardless of whether you are on the Government side or in the Back Benches! I want to thank all the hon. Members who have said: Our salvation will be our institutions. The institution of Parliament is the most supreme institution in this country! Imagine, with the events of early in the year, when the issue of the presidency was being contested, at least, Parliament was not in contention! So, to what extent would anybody have trusted the President to convene this Parliament? If the President realized that he should not convene Parliament, what would you have done? Nothing! We would have gone back to the streets, killing more people as if the over 1,200 dead and more than half a million displaced were not enough!

Mr. Temporary Deputy Speaker, Sir, that is why we want this institution of Parliament to be the one that can determine its calendar and its job!

Mr. Temporary Deputy Speaker, Sir, we have done it! That is why I like this Motion coming at this time of Obama - yes we can! We did it with the Parliamentary Service Commission. We did it with the Leader of the Official Opposition. We are

doing it with the Official Opposition Bill. We are doing it with the establishment of the Budget Office and we are doing it with the Cabinet size! Yes we can!

Mr. Temporary Deputy Speaker, Sir, I rest my case and I beg to move.

*(Question put and agreed to)*

#### INTRODUCTION OF CLIMATE CHANGE AND GREENHOUSE EMISSIONS REDUCTION BILL

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

THAT, noting with concern that the earth's climate is now warming up at unprecedented rate than ever before; further noting with concern that the Inter-Governmental panel on Climate Change, a body established by the United

**[Mr. Bett]**

Nations predicted temperature rises of up to 11.5F by the year 2100 and a sea level rise of up to 23 inches; alarmed that this is projected to cause extensive damage to forests, marine ecosystems and agriculture; aware that Kenya is already experiencing the impacts of climate change; this House grants leave to introduce a Bill for an Act of Parliament entitled the Climate Change and Greenhouse Emissions Reduction Bill to provide for measures to address climate change; to set targets to achieve a reduction in greenhouse gas emissions; promote the use of renewable sources of energy; and for matters related thereto and connected therewith.

Mr. Temporary Deputy Speaker, Sir, I am, indeed, grateful that I am moving this

Motion at this time, knowing very well that last year, former Democratic Party Candidate in the USA, Mr. Al Gore, was awarded the Nobel Prize for bringing to the fore the issues of climate change. Today, another candidate of the Democratic Party, Mr. Obama, has won the election in the USA. Mr. Al Gore, unfortunately, did not win the elections. I congratulate Mr. Obama, on behalf of myself and the people of Buret whom I represent.

Why am I making reference to the two gentlemen? It is because in 1997, a world climate change conference resolved and introduced the Kyoto Protocol, a protocol intended to be used in controlling green house gases in the world. Many countries of this world have assented to that protocol. One country which is emitting the largest quantity of green house gases, the USA, has not signed or acceded to that document to this day and I am hoping that Mr. Al Gore will team up with Mr. Obama and call the USA to partake in the signing of this protocol that will, indeed, be useful in cleaning up the atmospheric systems of the world.

As I continue, I want to indicate the urgency of this matter and my intention. This world is really in a big probelm as regards climate conditions of the world. Allow me, therefore, to quote from three important sources. First, the Secretary of the United Nations Framework Climate Convention, Ms. Joke Waller-Hunter. She says:-

"Although climate change has happened throughout the earth's history, it has never before ocured at the current pace, nor has it ever ocured because of human interference. Climate change is a highly complex problem, which has the potential to impact negatively on every sphere of life if not checked, yet the inter-changes between the earth's climate and human-induced greenhouse gases emission do not constitute everybody's main area of concern or interest. This is not surprising since addressing climate change

translates into dealing with deeply sensitive scientific, political and economic concepts and perceptions."

That was the UN Executive Secretary of the body charged with the responsibility of introducing rules and regulations on how to control emissions of greenhouse gases into our atmosphere.

Mr. Temporary Deputy Speaker, Sir, I also found it necessary to read to this House, a statement by Friends of the International Climate, which says:-

"Climate change is no longer just an environmental

**[Mr. Bett]**

issue. It is a looming human catastrophe."

That was said by Cathrine Pierce of Friends of the International Climate.

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

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

Mr. Temporary Deputy Speaker, Sir, the last quote I want to make is from the Chinese. They have recognised the dangers and the problem we are in and they say in a white paper prepared by the Supreme Council of the Chinese Government:-

"Extreme climate phenomena such as high temperatures, heavy precipitation and severe drought has increased in frequency and in density. The world is in danger".

Mr. Temporary Deputy Speaker, Sir, as I continue, I want to say this: There is no time to waste and to lose. We have to move as quickly as we can as a country and as the world in response to what was originally seen in 1979 at the First World Conference on climate change. At that world conference, it was noted that there were increasing temperatures. It was also agreed there that we hold as many

conferences in future. In 1988, Malta introduced the Inter-Governmental Panel on Climate Change Convention. I think it was fitting for Malta to do so because within the problems of climate change is the danger of small islands. Malta is a small island in the Mediterranean Sea. As the sea rises, such small islands are bound to be swallowed by the waters.

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

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

Mr. Temporary Deputy Speaker, Sir, I want to now pause and ask: What then is climate? What then is climate change? Climate is the atmospheric condition in its natural condition that was originally created. If I could remind Members, God said after his creation: "Everything I have done is good". Now, this atmospheric environment has got gases in itself. These gases form a layer around the earth. The gases that form a layer around the earth include nitrogen, which is 78 per cent, and oxygen which is 21 per cent. The other layers are lesser gases. That creates a natural greenhouse effect as we have in flower farming. I am happy that my good friend and the former chairman of my committee, Dr. Wekesa is here and I know that he understands greenhouse in terms of flowers.

Mr. Temporary Deputy Speaker, Sir, these gases provide a blanket protection to the earth. The sun rays are deflected back and they allow a few of those rays to reach the earth. That is the way God created the atmosphere and that is where we have the climatic system as it is today.

Mr. Temporary Deputy Speaker, Sir, this situation is soon and is actively being interfered with by human-induced emissions into the atmosphere. These emissions include carbon dioxide. Carbon dioxide, which is induced or introduced into the atmosphere, has been increasing over time because of industrial revolution and enhancement of our industrial activities as countries of the world. So, they

increase that much.

Mr. Temporary Deputy Speaker, Sir, the other gas is nitrous oxide. Nitrous oxide again is out of human activity and it is going up at the rate of 5 per cent. The other one is methane. You may wish to know that

**[Mr. Bett]**

methane gas comes out of our waste products. If one was to measure the level of methane at Dandora dump site, you will find that the level is extremely high at that particular point but all that is being emitted and relayed into the atmosphere generally known as the stratosphere.

Mr. Temporary Deputy Speaker, Sir, there are also the Ozone gases which are being released into the atmosphere. I am not leaving the aloe-carbons which are normally used in our fridges. They are used in our cooling equipment. They are released into the atmosphere and destabilise the climatic conditions. That disturbance is what brings about climate change. I know my colleagues have said that the hon. Obama has been talking about "change". Yes, there is also change in our climate. This change is adverse and negative to livelihood.

Mr. Temporary Deputy Speaker, Sir, you may also need to know that these gases, as they concentrate within the layer we call the green house effect, they trap a lot of heat. That heat is then sent back to the earth. You may have asked yourself: Why is it hotter these days than it was before? It is because of emissions of gases that have already mixed up with natural gases to produce the green house effect. They are closing on us and transferring heat to us. This heat is what causes high temperatures today. We find that we have droughts which have never been experienced before.

Mr. Temporary Deputy Speaker, Sir, when gases such as carbon dioxide are in the atmosphere, they stay for over 200 years. They work on us for 200 years. They have effects for the next 200 years. Methane, which is 23 times stronger in holding heat, stays in the atmosphere for 114 years. This is why I am

saying there is great urgency to deal with the issue of climate change.

Mr. Temporary Deputy Speaker, Sir, like I said, climate change is a challenge to humanity. Its signs are phenomenal and known. They have been seen and I need not elaborate on them. The weather patterns in the world are changing. We used to have the short and long rains. However, they are no longer received in the months they used to. This is because of the green house gases destabilising atmospheric set-up. The moment you destabilise the atmospheric set-up, the weather conditions change. What happens when weather conditions change? It affects supply of water, food and our health. That is the urgency of this matter.

Mr. Temporary Deputy Speaker, Sir, it again affects patterns of behaviour of plants and animals. In the process, they can cause what we see today in human beings; albinism. This is a result of disturbance of the genetic arrangement, so that genetic arrangement gives us a white child who is born from two black parents.

Mr. Temporary Deputy Speaker, Sir, this green house effect also causes changes even to blossoming of flowers. The moment this changes, it affects the livelihood of the beasts and birds. The next thing is, you will not have honey on your breakfast table. We must address these issues as quickly as possible.

Mr. Temporary Deputy Speaker, Sir, these are the issues which we must address as quickly as possible. The migratory birds and animals will change their movement as a result of climate change. You will find the wildbeast not going to where they used to go. That also applies to flamingoes. They are supposed to go all the way to Lake Natron to breed but they may not go there due to climate change. The temperatures on the flight route will have changed and will force those birds not to fly to their breeding places. Consequently, that is going to give us many problems.

Mr. Temporary Deputy Speaker, Sir, I want to give you a few examples of such situations. In 2003, heavy rains in Ethiopia displaced 70,000 families. In Kenya, there was *El Nino* and *La Nina*. We may not have [Mr. Bett] thought seriously about them but those are the

consequences of climate change. We remember the devastating effect the *El Nino* rains had in this country. Our roads and bridges were destroyed, and all manner of destruction happened. Then came *La Nina*, which is the opposite of the *El Nino*. It comes because there is a lot of heat and evaporation, which creates drought. Drought denies us food. In 2006, failed rains in countries like Ethiopia, Kenya and Somalia put 17 million people in famine. It brought in the singer called Geldof to come and sing in Ethiopia in order for food to be supplied to Ethiopia. We expect more of those because of climate change. Another example is that in 2003, there were heat waves in India which killed 1,500 people. Europe, Italy and France had the same problem that time. There was drought in Australia and the effects are still being felt up to today. In the last 40 years, the temperatures in Siberia have risen by 3 degrees centigrade. Rising by 3 degrees centigrade is a huge margin that will destroy some aquatic life in lakes because it is supposed to stay in a cold environment. All that happens because of climate change.

Mr. Temporary Deputy Speaker, Sir, coming closer home, there is no snow-cap on Mt. Kilimanjaro. That is because there is heat being generated by the greenhouse gases. The same applies to Mt. Kenya. That disappearance of the snow-cap, which the scientists are calling the "bamafrost" will destroy some plants along the way. It will deny livelihood to animals and plants that were living on top of Mt. Kenya and Mt. Kilimanjaro. There are so many of such situations that are happening in the world today. There is the ice-melting in the Arctic and Antactic. The polar bear is in a big problem. Their numbers are reducing because of climate change. Disasters related to floods have increased since 1960 in the whole world. In 1960, we only had eight cases and in 1970, we had 31 cases. In 1980, there were 41; in 1990, we had 56 cases; in 2000, there were 154 cases and in 2005, there were 170. The numbers are increasing for such catastrophies and I cannot agree more with what the United Nations Secretary-General said; that, it is no longer an

environmental issue, it is an issue of human catastrophe.

Mr. Temporary Deputy Speaker, Sir, I quickly move to the issue of carbon dioxide; the culprits are the industrialised nations, and the sufferer is the developing world. Also, the developing world is contributing to the situation by cutting forests. The trees, the soil and the ocean are carbon sinks. Carbon dioxide is trapped by the trees, in the soil and washed away to the ocean. As we continue to do all this and cultivating land, we are releasing carbon dioxide from the soil to the atmosphere. As we burn wood, whether cut down yesterday or old, we release carbon dioxide, which was trapped in there, into the atmosphere.

The net effects are the consequences I have told you about. Then, what must we do? We need to move as quickly as possible, to mitigate those things. The way to mitigate is to introduce--- I can see my time is up!

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Bett, who is seconding your Motion?

**Mr. Bett:** Mr. Temporary Deputy Speaker, Sir, I call upon Mr. Mututho to second my Motion.

**Mr. Mututho:** Thank you, Mr. Temporary Deputy Speaker, Sir, I beg to support this very important Motion.

Hon. Members, I want to begin by telling you a very simple story which you may understand, if you looked at me.

Mr. Temporary Deputy Speaker, Sir, you could allow me to hold this bottle here and define this as the amount of food that certain unicellular plants and animals can feed on for 100 days; 100 days is all that is contained in this particular container. At the tenth minute, one little creature -

**[Mr. Mututho]**

unicellular--- They have one cell--- Unicellular plants or animals will multiply once every day. They would double. One little one tells the boss: "Boss! Listen. We have a population problem here. This is the tenth day and we have consumed 10 per cent of the food." Then he is told: "Listen young man. Forget about all that you are talking about. We have just been here for ten days and have

consumed 10 per cent. We do not have a population problem". On 11th minute, they come back again and say: "Boss, we said we have a big problem with food." He says: "What is wrong with you. It is only the 11th minute." The little plant turns to the boss and says: "But we have consumed 20 per cent of the food. This is 12th minute. You said we have enough food for 100 minutes." You know very well that by the 13th minute, they will have already consumed 80 per cent of the food available, and they do not have 100 minutes. That is where we are.

I would like to explain that once again, when we have time. But looking at the time, I will be forced to be here again on Wednesday to go further. But I want to highlight the fact that, we in Parliament, should not turn a blind eye to the various conventions, conferences, agreements and treaties from 1920 that have taken place in regard to this matter of the environment. The first one was in 1920. Looking through all of them, they have one thing in common. They want to save this planet. For those who may be opposing, let them know that the Sahara desert was all grass. If you still doubt that one, look at the oil fields. Oil is developed from organic matter. All those oil fields were, one time, vegetation and plants. We ignored warnings as early as 1920, when we held conferences. We have had a whopping 274 conferences, resolutions and treaties to do with the environment. I would deal with a summary of that, but I am encouraging Members to scan through most of

those conventions.

Mr. Temporary Deputy Speaker, Sir, I see that my time is up. But this is just the beginning. But when we come back on Wednesday, I will tell you the implications that those conventions have.

Most of them which we signed as late as 1988 demand that we must have laws in place to control CFCs - those are the gases that were mentioned by hon. Bett. I thank him most

sincerely for bringing this Motion. I want to challenge the Ministry of Environment and Mineral Resources that, ideally, it should have done that decades ago and brought that law. There are issues which we have signed and assented to. They are all held in those conventions and need to be enacted through an act of Parliament. That is why I am supporting this most important Motion to try and introduce a Bill in this House that will add muscle to this good Ministry that is in charge of our environment, so that it can be able to implement the quantity of CFCs, hydro-carbon, glomochlorides and so forth. Those quantities cannot be enacted without an effective law. I am looking forward to the hon. Minister for Environment and Mineral Resources to stand up and own the Motion.

#### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Prof. Kaloki): Hon. Members, it is now 12.30 p.m. We will continue with the seconding of the Motion when we reconvene. I now interrupt the business of the House.

The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.