

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 1st August, 2007

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.108*

#### RECONSTRUCTION OF BRIDGE ON NYARACH-OBOKE RANGWE ROAD

**Mr. Ochilo-Ayacko** asked the Minister for Roads and Public Works:-

- (a) whether he is aware that a bridge along Nyarach-Oboke Rangwe Road (D13) has been washed away by heavy rains; and,
- (b) what he is doing to re-construct the bridge.

**The Assistant Minister for Roads and Public Works** (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that two lines of Armco Culverts along the Nyarach-Oboke Rangwe Road were washed away by heavy rains on 3rd February, 2007.

(b) A structure to replace the twin Armco Culverts has already been designed by the engineers in my Ministry. Construction of the new structure is programmed to start immediately funds for this financial year are released.

**Mr. Ochilo-Ayacko:** Thank you, Mr. Deputy Speaker, Sir. I want to thank the Assistant Minister for the answer. You notice from the answer that this "injury" was occasioned on 3rd February, 2007. Could the Assistant Minister tell us, exactly, when the repair or reconstruction of the bridge will commence so that my people, who are good Kenyans, can also celebrate?

**Eng. Toro:** Mr. Deputy Speaker, Sir, I cannot tell exactly when we will commence work. However, the new design to replace that structure is ready. We already have an estimate that is going to cost Kshs5 million. So, since we have only gone through one month of this financial year, once we have the funds from the Kenya Roads Board (KRB) - because this bridge will use funds from the Fuel Levy Fund - we will be definite about when the work will start.

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

**Mr. Deputy Speaker:** Is that Mr. Manoti? I cannot see you properly!

**Mr. Manoti:** Thank you, Mr. Deputy Speaker, Sir. I commend the Assistant Minister for the good work they are doing. But when it comes to building of bridges, you find them having a problem because their technical people are stationed in the provinces. It becomes very difficult, at this level, to check the bridges at the district level. I would like to know from the Assistant Minister

what they are doing in connection with the minor bridges which are built under the supervision of councillors. Can they set aside some money to cater for these important bridges?

**Eng. Toro:** Mr. Deputy Speaker, Sir, we have problems with the small bridges. I would like to appeal to hon. Members from various constituencies to prevail upon the district engineers so that they can liaise with the county councils. The councillors receive money through the Local Authorities Service Delivery Action Plan (LASDAP) after identifying the bridges they want to construct. However, they do not liaise with the district engineers. So, you will find that a structure has been put up and, by the time you know what is happening, you also discover that the county council did not consult our engineers. That is the problem. So, I appeal to hon. Members to prevail upon the clerks to the councils and consult every time there is a bridge being built using LASDAP funds. They should liaise with the District Roads Engineers (DREs) so that hon. Members, who might have assigned some money to a project, can put together the resources with the LASDAP funds so that a better structure can be put up.

**Mr. Omingo:** Thank you, Mr. Deputy Speaker, Sir. Whereas we appreciate the work being done by this Ministry, most of the bridges in this country were built during the colonial times. One such bridge is the one across Gucha River on Road D205 that is earmarked for construction. What deliberate policy does this Ministry have to inspect bridges and rehabilitate them, since road construction takes quite a long time and sometimes destruction of roads causes Kenyans a lot of suffering and economic losses? A deliberate policy should be set aside by this Ministry.

**Eng. Toro:** Mr. Deputy Speaker, Sir, I agree with the hon. Member that most of the bridges were built a long time ago. Although they are structurally safe, you will find that in most cases, the traffic at that time was less and, therefore, the bridges are very narrow. Wherever we have construction of new roads, we replace those old structures with wider bridges. Otherwise, the structures are still okay.

However, you will find that the roads are too narrow and you can only have one vehicle passing at a time. The programme we have is that wherever we are constructing new roads, we are also replacing old structures with new bridges. We are also trying to strengthen and have more personnel in our Bridges Section. The Bridges Section is a specialised structural engineering undertaking. However, we do not have enough engineers even at the provinces. Sometimes you will find that the DREs are not bridge engineers. So, we have only one engineer per province to deal with bridges and that is not enough. Even at the headquarters, we have a shortage of engineers to deal with bridges.

**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, Rongo Constituency was formerly lumped together with Rangwe Constituency. Rangwe is a major market. This is the only road that links Rongo to Rangwe market. Pupils can also not go to schools on either side of River Nyarach. Pupils cannot go to Nyaboro Primary School. Since the Assistant Minister knows the procedure, and assuming that they get money next week, could he inform the House when the actual construction work will start and be completed? We all know February was quite a while ago. These people cannot live in anxiety forever.

**Eng. Toro:** Mr. Deputy Speaker, Sir, I am not able, at this point in time, to say how long the construction work will take. However, I would like to assure the hon. Member that we will do our best to make sure that the money is available. That is why I have told the hon. Member that it is a "D" classified road and he should go back to the District Roads Committee (DRC) to make sure it constructs this bridge. So, I have committed that we will do it as soon as the money is available.

**Mr. Deputy Speaker:** Next Question by Mr. C. Kilonzo!

NUMBER OF NURSES RECRUITED BY  
GOVERNMENT SINCE 2006

**Mr. C. Kilonzo** asked the Minister for Health:-

- (a) how many nurses have been recruited by the Government since 2006;
- (b) whether she could table the number of nurses posted per district and constituency to date;
- (c) whether she is aware that many dispensaries built through the Constituencies Development Fund (CDF) are not operational due to lack of medical staff; and,
- (d) whether she is further aware that many operational dispensaries do not have laboratory technicians.

**The Assistant Minister for Health** (Dr. Machage): Mr. Deputy Speaker, Sir, I beg for the indulgence of the House that I answer this Question on Tuesday because I have not received some data necessary for this Question.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, it is okay.

**Mr. Deputy Speaker:** Very well. The Question is then deferred to Tuesday, next week.

*(Question deferred)*

*Question No.147*

NUMBER OF IDs PROCESSED/ISSUED  
IN LAST THREE MONTHS

**Mr. Ndambuki** asked the Minister of State for Immigration and Registration of Persons:-

- (a) how many identity cards have been processed and issued to the public in the last three months; and,
- (b) whether he could table a detailed list of IDs issued in each district countrywide.

**Mr. Deputy Speaker:** Is the Minister of State for Immigration and Registration of Persons here? It seems he is not here! Could the Leader of Government Business answer this Question on his behalf?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, on behalf of the Minister of State for Immigration and Registration of Persons, I beg to reply.

(a) A total of 404,097 identity cards have been processed and issued to the public since 19th February, 2007 after the production of identity cards commenced after stalling in August, 2006.

(b) A detailed statistical breakdown of identity cards issued to each district countrywide is as in Appendix I which I hope the hon. Member has got.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, I thank the Vice-President and Minister for Home Affairs for answering the Question. However, I do not have the Appendix I, so that I could peruse it. Could he table the Appendix? Will there be enough time for me to peruse it?

**Mr. Deputy Speaker:** But you have not seen how long it is. Why do you not, first of all, let the Vice-President table the Appendix?

**Mr. Awori:** Mr. Deputy Speaker, Sir, may I ask your indulgence then for you to defer this

Question, so that the Appendix can be supplied to the hon. Member for him to study it and prepare for supplementary questions?

**Mr. Deputy Speaker:** Yes, indeed! Even the Chair is in possession of that answer which His Excellency is reading and there is no Appendix attached. So, I think the Question will be deferred, so that the Appendix is provided. Your Excellency, the Vice-President, could you let us know when this Question should be deferred to?

**Mr. Awori:** Mr. Deputy Speaker, Sir, may it be deferred to Tuesday, next week?

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. This is a very important Question. I am happy the Vice-President has tried to answer it. However, Questions in the House must be taken very seriously. This is a very serious omission. I think whoever is responsible should be reprimanded accordingly because we are talking of an attachment which is not there.

**Mr. Deputy Speaker:** First of all, you have raised two issues. The first issue is that this is a very serious Question and the Vice-President has answered it. I thought that proves that it is a serious Question and that is why the Vice-President is answering it. Your second issue which is also very important is for the Minister to supply an answer even to the Chair purporting to be attaching an Appendix which is not attached. It shows some degree of inefficiency in that Ministry. Therefore, I think the Ministry should take note that they have supplied an answer to the Chair, the hon. Member and even to the Leader of Government Business, purporting that an Appendix is attached which is not there! In fact, as a result of that negligence, the House has wasted a lot of time. Therefore, I think the Minister responsible should take note of the House's displeasure at that inefficiency. Be that as it may, the Question is deferred, as agreed between the Leader of Government and the hon. Member, to Tuesday, next week.

*(Question deferred)*

Next Question by Mr. Wambora!  
*Question No.353*

AMOUNT OF MONEY RELEASED  
TO FARMERS FROM COFFEE  
DEVELOPMENT FUND

**Mr. Deputy Speaker:** Is Mr. Wambora not here? There is something unusual. Mr. Wambora is never late. He is always here. So, I am hesitant to drop this Question because Mr. Wambora is a very faithful Member of this House. He is always there.

*(Applause)*

I cannot believe that he is absent for reasons which he can prevent. Because of this doubt, therefore, I defer the Question. So, hon. Members can see that if you perform well, the Chair can also recognise your performance.

**Mr. Cheboi:** On a point of order, Mr. Deputy Speaker, Sir. Is it not because, possibly, you are from the same profession that you are taking preference?

*(Laughter)*

**Mr. Deputy Speaker:** Yes, I understand Mr. Wambora used to be a District Commissioner and I happen to have been a Provincial Commissioner. I think that shows that line of profession has

got some degree of training that enhances efficiency.

*(Laughter)*

**The Assistant Minister for Agriculture** (Mr. Kaindi): On a point of order, Mr. Deputy Speaker, Sir. Is it then possible to get directions as to when the Question will be deferred to? I would like this Question to be deferred to Tuesday.

**Mr. Deputy Speaker:** Okay, let the Question be deferred to Tuesday as requested by the Assistant Minister. Secondly, those who see Mr. Wambora should tell him that the House has been magnanimous and, therefore, he must be here on Tuesday.

*(Question deferred)*

*Question No.354*

#### STATUS OF DISBURSEMENT OF YOUTH FUND

**Mr. Omingo** asked the Minister of State for Youth Affairs:-

- (a) what the current status of the disbursement of the Youth Fund; is and,
- (b) how much money has, so far, been disbursed and received by the youth of the three constituencies in Gucha District.

**The Assistant Minister, Ministry of State for Youth Affairs** (Mr. ole Metito): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry reserved Kshs210 million to the constituencies of which Kshs118 million has been disbursed to finance 2,902 enterprises of youth groups. The amount set aside for disbursement through financial intermediaries was Kshs690 million; of which, as at 31st July, 2007, a sum of Kshs423.5 million has been released to finance 10,937 youth businesses.

(b) South Mugirango Constituency received Kshs1 million and we have financed 21 youth groups. Bomachoge received Kshs1 million and we financed 20 youth groups. Bobasi received Kshs1 and we have financed 24 youth groups. A further Kshs170,100 has been disbursed to Gucha District through financial intermediary by Family Bank.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, I thank the able Assistant Minister for Youth Affairs for this response. However, if you look at this Question and the amount of funds actually sitting in particular institutions for over a year, it is amazing.

Could the Assistant Minister tell this House, in terms of financial propriety, who stands to benefit from the interest of a whooping Kshs500,000 million sitting in the bank today?

The balance of Kshs690,300,000 is still with some intermediaries. Could the Assistant Minister tell us how these youth groups are going to benefit from the interest accruing from that money in the account for over a year?

**Mr. ole Metito:** Mr. Deputy Speaker, Sir, this Fund was gazetted on 8th December, 2006. That was for the purpose of providing the necessary legal framework to govern its operation. That was when the initial facilitation that opened up linkages for supply chains was started. However, it was not until 1st February, 2007 that the first tranche was released when His Excellency the President officially launched the Fund. So, from 1st February to 1st August is just six months.

I would say that although there is still a lot of money lying in the bank, through the financial intermediaries, the ultimate beneficiaries would be the youth groups because the Fund

was made a State Corporation on 11th May, 2007 by His Excellency the President and it is for a period of three years. So, at the end of the day, all the funds would still trickle down to the youth groups that are intended to be the ultimate beneficiaries.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, when this Fund was initiated, it was supposed to benefit those who are not able to raise financial securities. Much of the money that is being disbursed is the amount that was set aside for the constituencies; that, is Ksh1 million. The bulk of that money was left with the banks. It has become completely impossible for the youth of this country to access that money.

Could the Assistant Minister now tell us why they are allowing the financial intermediaries to exploit the youth of this country? Why can they not return that money to the constituencies instead of it lying in the bank?

**Mr. ole Metito:** Mr. Deputy Speaker, Sir, the money that is going through the financial intermediaries has some conditions that are set by the Ministry and one of them is that the youth groups or individuals--- Those funds with the financial intermediaries can be accessed by individuals as well as groups. Some of the conditions that we agreed upon with the financial intermediaries are, first, not to ask for collateral and secondly, not to charge interest rates more than 8 per cent. I think that is fair if you try to compare with the market rates.

Although I agree that some of the financial intermediaries have been trying to actually move the goalposts by trying to charge more than 8 per cent, that has been dealt with by the Ministry, I am sure that the youth groups are in safe hands of the Ministry of State for Youth Affairs.

**Mr. Rotino:** Mr. Deputy Speaker, Sir, the Assistant Minister is not really answering the questions. First, he was asked to tell the House who is going to benefit from the interest that is accruing. Then he was asked about the money that is lying in the banks. The money is not being disbursed because the conditions are so difficult.

Could the Assistant Minister tell us who benefits from the interest that accrues from that money?

**Mr. ole Metito:** Mr. Deputy Speaker, Sir, the money that is lying in the banks is obviously going to accrue some interest. The question is whether it is the youth groups that are going to benefit from the interest accrued or the financial intermediaries. Our concern is to speed up access to this Fund by the youth groups so that more money can be off-loaded from the accounts of the financial intermediaries.

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

**Mr. Deputy Speaker:** Hold your point of order! Mr. Muriithi!

**Mr. Muriithi:** Mr. Deputy Speaker, Sir, the Assistant Minister is deliberately avoiding to answer this very important Question. When we passed the Budget last year, there were no conditions attached to these grants. They were free grants. The Assistant Minister is telling us here now that "we agreed." I do not know with who!

These requirements were never tabled in this Parliament and this Fund is meant to benefit the children or the youth of the rich people because they are able to show some security. What is the Ministry doing to assist the less-fortunate members of the youth community in order to access these funds fairly, Nyeri District included?

**Mr. ole Metito:** Mr. Deputy Speaker, Sir, it is not true that this money is going to benefit the children of the rich. So long as you are a young person, aged between 18 years and 35 years and you are a Kenyan, you are eligible to access this Fund whether individually or as an organized group. We have designed application forms and proposal formats that are available to the youth countrywide through divisional youth officers and social services. That is how they are going to formerly apply for these funds. So, it is not true to say that the Fund is only meant for the children

of the rich.

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

**Mr. Deputy Speaker:** I think Mr. Bahari had risen on a point of order. Do you still have it?

**Mr. Bahari:** Mr. Deputy Speaker, Sir, the issue of interest on the money that has not been disbursed is very crucial. I think Mr. Rotino raised it. The Assistant Minister has tended to avoid that. We want to see prudent management. Over Kshs350 million is lying in a bank and you are not

telling us what kind of contract you have with that bank! Are you serious?

**Mr. Deputy Speaker:** Mr. Assistant Minister, I think we have dealt with this matter for a long time. Indeed, it is an important Question and probably you may wish to look at what the agreement between the Government and the banks is. The Government could have agreed with the banks that there would be no interest accruing but that is the point that hon. Members are raising; the element of interest. Is the money earning interest? If so, is it being passed on to the account of the Fund? That is what the hon. Members want to know.

**Mr. ole Metito:** Mr. Deputy Speaker, Sir, it is true that we have agreements with financial intermediaries and I can avail them to this House. However, the interest that accrues is obviously loaded to the Fund account for further transmission to the youth groups.

**Mr. Rotino:** On a point of order, Mr. Deputy Speaker, Sir. This Question is very important and I am pleading with you that the Question should be deferred because he is not really answering it. He is just trying to go round the Question and yet it is quite important. For example, in West Pokot, we do not have any financial institution that the money is channelled through. He is not even telling us anything about it. I believe that the Assistant Minister is ill-equipped to answer this Question.

**Mr. Deputy Speaker:** I do not think we have reached that far; to defer the Question. I have already assisted the House by articulating further to the Assistant Minister what hon. Members want to know. The Assistant Minister is here and he is capable of answering this Question now. I do not think we need to defer it.

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

What is it, Mr. Maore?

**Mr. Maore:** Mr. Deputy Speaker, Sir, can we get clarification on whether the Assistant Minister has got special authority from the Treasury to run interest-earning accounts because he is now talking about how to earn interest? I know that, in the Constituencies Development Fund (CDF) and other accounts where we run are current accounts, usually, there is no provision for earning interest because we do not know how to distribute it after we have earned it!

**Mr. Deputy Speaker:** This is the reason why I asked the Assistant Minister whether there could be an understanding that the account may not be earning interest as it is, indeed, common with many Government accounts or funds held by financial institutions. This is why it is up to the Assistant Minister to clarify. If he is not very sure, then he can ask the House for more time to ascertain the information.

**Mr. ole Metito:** Mr. Deputy Speaker, Sir, to be able to give more clarification on that issue, I think I need to bring the agreement we have entered into with the financial intermediaries and then the House can update itself with more information.

**Mr. Ahenda:** On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to ask the Assistant Minister, when he brings that document, to let us know how these financial intermediaries were chosen? There is a tendency by the Government to throw every money into

Equity Bank!

**Mr. Deputy Speaker:** Mr. Ahenda, that is not a point of order! You stood on a point of order, but that is a question on how they were chosen. It is not a point of order!

**Mr. ole Metito:** Mr. Deputy Speaker, Sir--

**Mr. Deputy Speaker:** Just a minute, Mr. Assistant Minister! I mean, I think the Assistant Minister has agreed that the Question needs time and he has asked for more time. So, we do not need to go further into this issue.

This Question has taken some time. So, when we resume this Question, I want it to go on record that we will not be going back to a lot of issues. We will be dealing with aspects of the interest accrued in these accounts. So, that is the question that the hon. Member will be pursuing because we have dealt with it sufficiently.

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

What is it, Mr. Ndambuki?

**Mr. Ndambuki:** Thank you, Mr. Deputy Speaker, Sir. When the Assistant Minister will be bringing documents about interest, could he also bring a list of those institutions to which they are channelling this money, because we do not know some of them?

**Mr. Deputy Speaker:** Mr. Assistant Minister, you should satisfy the House by bringing the schedule of the funds, where they are held, which institutions they are sent to and then the element of interest, if any, which is accruing and lay it on the Table. That is the point.

The Question is, therefore, deferred for that purpose to Tuesday next week. Is that okay, Mr. Assistant Minister?

**Mr. ole Metito:** It is okay, Mr. Deputy Speaker, Sir.

*(Question deferred)*

*Question No.377*

SHORTAGE OF TEACHERS IN  
RACHUONYO PRIMARY SCHOOLS

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

- (a) whether he is aware that due to acute shortage of teachers in Rachuonyo District, KCPE results for the last two years were very poor;
- (b) whether he could inform the House how many primary school teachers are currently serving in the district; and,
- (c) when the Ministry will post adequate teachers to the district.

**Mr. Deputy Speaker:** Well, we did receive a call this morning from hon. Mugo-- But I understand that the Assistant Minister is here!

**Hon. Members:** Yes!

**Mr. Deputy Speaker:** The Question has been asked and the Assistant Minister is here. Please, go ahead!

**The Assistant Minister for Education (Dr. Mwiria):** Thank you, Mr. Deputy Speaker, Sir. I beg to reply.

(a) I am aware that Rachuonyo District has 327 primary schools with a shortage of 1,050 teachers as at July, 2007. The KCPE performance in the district declined slightly from a mean score of 249.74 in 2005 to 249.72 in 2006, which is insignificant. While I may not rule out the



shortage of teachers as one of the factors that have contributed to this decline in performance, I think it is important to also ask questions about what else is making this difference.

(b) As of July, 2007, there were 2,376 primary school teachers in the district. The Ministry is currently in the process of replacing teachers as well as recruiting some more. As you know, 7,000 teachers will be employed to replace those who have exited through natural attrition and an additional 4,000 teachers, for the first time, will actually be recruited not to fill any existing positions; I mean, to deal with the shortage. This will make a total of 11,000 teachers. So, the problem of Rachuonyo is being addressed along with the problem that is prevailing in other districts;

(c) Up to now, we are not able to come up with all the teachers that will be required in all the districts.

**Dr. Awiti:** Thank you, Mr. Deputy Speaker, Sir. Education is one of the most important things in which any society that desires to develop must invest a lot of money. It is already perennial that only in those areas where the schools were established a long time ago and were given good equipment that we always see good results coming from those places. What is the Ministry doing to address the issue of making education equivalent in all the areas in the country so that we do not always see the Alliances and Mangus being the first in every year's examinations?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, first, I would like to correct the impression that areas that were historically advantaged are always doing the best in the Kenya National Examinations. For example, I have picked Eastern Province. Marsabit District has been the top district in the last three years, and there were other schools like Maranda, which have been among the top in the country. This also applies to--- You know, the top student last year came from Kapsabet Boys High School.

So, Mr. Deputy Speaker, Sir, let me say that, generally, of course, there are problems and historical disadvantages, but there are cases where we find some minor differences in terms of performance. What we are doing, as a Ministry, is to invest in instruction; we are investing in the training of teachers, some training for school committees but, mainly, some inputs especially in primary schools in terms of textbooks and so on. So, there are many measures that we are taking as a Ministry to ensure that there is some kind of equity. In areas that are more remote, there are plots for boarding primary schools, there are grants specifically meant for those disadvantaged areas and there are bursary programmes to support education. So, whatever is being done is being done across the country. But there is even much more emphasis being put on areas that are more disadvantaged, even though it might take us a bit of time before we narrow the gap between the districts that do so well and those that have been doing rather poorly on average.

**Mr. Bifwoli:** Thank you, Mr. Deputy Speaker, Sir. You will realize that schools in this country are deeply understaffed because of free primary education. The Ministry is only recruiting teachers to the tune of 10,000; meaning that those who retire and those who die in this country are more than 10,000. Given the fact that schools in this country are all understaffed, when will the Ministry employ teachers so that there is quality education in this country in the name of free primary education?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, first of all, the 11,000 teachers to be recruited are more than the number of the teachers who have retired or died. Only 7,000 teachers have retired or died. So, in addition to that, we are recruiting an additional 4,000 teachers. I said earlier that this is not enough, but I think it is progress when compared to previous years when we were not recruiting any additional teachers outside those we have lost through natural attrition. So, I cannot say when, but I must say that we are making progress. In the next two to three years, maybe, we will get to a point where we will have completely dealt with the problem of teachers shortage.

**Prof. Mango:** Mr. Deputy Speaker, Sir, one problem in the Ministry of Education is lack of

supervision. You go to a school, you find that the headmaster and other teachers are away. In view of the fact that there is a shortage of teachers, could there be regular inspection, so that the few that are there can perform?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, it is true that the problem of lack of supervision has been there. It has been there but we are, again, making some strides in this direction. We are recruiting more quality assurance personnel. Last year, we recruited 4,000 staff. This year, we are going to recruit some more. So, there is going to be improvement. About teacher absenteeism, as supervisors, we have to also ask the Boards of Governors (BoGs) and Parent Teachers Associations (PTAs) to be partners with the Government with regard to ensuring that this kind of problem does not recur, because it is not always that you will be able to have an inspector in every school.

**Dr. Manduku:** Mr. Deputy Speaker, Sir, as the Assistant Minister said, recently they announced recruitment of PI teachers from a backlog of teachers who had been trained many years back. While making that announcement, the Ministry left out the new districts. I will give an example of my district - Masaba - where people who trained as far back as 1998 are still hanging there. What are we going to do with those teachers, whose districts have not been included in the list of the districts going to employ teachers during this exercise?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, unfortunately, because of the numbers that are being employed, and given the many teachers that we have out there, it is going to be the case for a while that there will be teachers who are not employed. I realise that there are districts that have more problems than others in that they have invested more in teacher-training, and many of their teachers have not been employed, but I doubt that even in Kisii there are teachers who trained in 1998 who have not been employed. Our policy has been to give preference to those who graduated earlier than others. So, I would imagine that, in a lot of districts now, we should have gotten up to the 2000 benchmark in terms of employing the teachers who have been out there.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, Prof. Mango has raised a very important point, which touches on the management of schools. One of the factors which lead to poor performance in schools is poor management by headteachers. What is the policy that the Government has with regard to headteachers whose schools perform poorly despite having enough teachers? Some schools record poor performance year in, year out despite the fact that they have enough teachers, but their headteachers remain in those schools. What is the policy that the Ministry has with regard to such headteachers?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, the Ministry would be quite happy to ask those headteachers to exit. However, we need the support of the BoGs and the sponsors. Often, the biggest problem, when it comes to removing teachers who are not performing, is the sponsor and the BoGs. So, I would like to call upon Members of Parliament, being very key stakeholders in education in their respective constituencies, to always convene BoGs and sponsors and agree to write letters on headteachers whom they think should be removed on the basis of poor performance. Once such a request is made by BoGs and sponsors, it is not a big problem removing a headteacher. The biggest headache is dealing with sponsors, BoGs and some people who think that teachers must remain because they are attached to them, or because they support them politically. So, it is very difficult for the Ministry to decide to remove a teacher without the recommendation of those who manage schools on behalf of the Ministry. The BoGs and the sponsors are a very key element in this process.

**Mr. Deputy Speaker:** Hon. Members, let us wind up this Question with a last one from Dr. Awiti.

**Dr. Awiti:** Thank you, Mr. Deputy Speaker, Sir. As I have said, education worldwide is used to bring about equality and equity in society. It is in Kenya, since Independence, where education is being used to perpetuate differences of classes in the society. Could the Ministry

consider making special arrangements to support areas which have been historically disadvantaged to come up, so that they become equal with the rest of those areas which were historically advantaged? This thing has been going on for the last 40 years.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, in terms of geography, I did say that there is already an emphasis by the Ministry to spend more in areas that have been historically disadvantaged. That is why we have special grants for ASAL areas in terms of laboratory equipment, special grants and so on. Personally, I have also spoken very strongly about affirmative action with regard to admission to top schools and even to university in this country. I have said many times that it is up to Parliament to pass a Motion on affirmative action to ensure that small secondary schools are not disadvantaged when it comes to admission to universities. It is up to Parliament to do that, because this is a very sensitive issue. It touches on the private sector and on a lot of us who are privileged, who would like to reproduce our privilege in our children. So, unless that happens in this House, forget it. It is not enough to just talk about it.

*Question No.410*

SHORTAGE OF FUEL FOR POLICE VEHICLES

**Mr. Mukiri** asked the Minister of State for Administration and National Security:-

- (a) whether he is aware that most police stations are faced with perennial shortage of fuel for their vehicles; and,
- (b) what steps are being taken to address the problem.

**The Assistant Minister, Office of the President** (Mr. Munya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that most police stations are faced with perennial shortage of fuel for their vehicles. However, sometimes, suppliers withhold fuel for Officers Commanding Police Divisions (OCPDs) at the beginning of the quota before the physical arrival of the Authority to Incur Expenditure (AIE) and cheques in the districts. This is usually the time when police stations experience fuel shortages. In addition, unexpected security situations arise, which require prompt action. These consume fuel budgeted for the following month, and thus occasion a shortage for that month.

(b) The steps that are being taken to address the problem include ensuring that AIEs to Provincial Police Officers (PPOs) and OCPDs are accompanied by cheques, issuing of special security AIEs to supplement the normal allocation, prudent use of resources available to avoid wastage and misuse, putting up of more police posts in areas known for high criminal incidence, use of new vehicles with low operational costs, and use of communication gadgets and radios to pre-empt criminal activities. However, I wish to state that the nature of police operations require enormous resources, which include fuel and vehicles, which the current budgetary allocation cannot meet, hence the need for more budgetary allocation.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, the Assistant Minister's answer is contradictory. On the one hand, he said he is not aware and on the other he went on to enumerate the problems that police stations are facing. In his answer, he addressed the levels of the PPOs and OCPDs. I asked this Question because it was prompted by one of the Officers Commanding Stations (OCSs) in my constituency. Police officers are facing shortages. In some cases, police stations are forced to go begging for fuel, so that they can perform their duties. What is the Ministry doing to ensure that

OCSs, who are the people on the ground, are able to access fuel? Sometimes the PPOs---

**Mr. Deputy Speaker:** Mr. Mukiri, you have taken too long asking your question. The Assistant Minister has understood your question. Can I now ask him to respond?

**Mr. Munya:** Mr. Deputy Speaker, Sir, Mr. Mukiri has not understood what I have said. The AIE holder for all police stations in the district is the OCPD. That is to say that the money is spent at the police stations but the accounting officer is the OCPD. We have acknowledged that sometimes there are shortages which are occasioned by the delay in disbursement of funds from the Treasury, as well as shortages occasioned by high level crime incidence that makes the police use more fuel than they had budgeted for a given month. However, there is no perennial shortage of fuel. The Question is talking about perennial shortage of fuel at police stations. So, there is no contradiction, but we are acknowledging that we need more money to be able to deal with those very few times when the police are forced to operate without fuel. The Question is as if there is never any fuel in police stations, which is not true.

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

**Mr. Deputy Speaker:** There are very many Members who have not asked questions this morning! Mr. Kombe, have you moved away from your usual point?

All right! Mr. Kombe!

**Mr. Kombe:** Mr. Deputy Speaker, Sir, the problem of police stations lacking fuel is spread all over the country. Whether there is an acute shortage or just a shortage of fuel, when there is an emergency, policemen always ask for fuel from the people who are to be served. For example, if one hangs himself or is killed and you report, you are told: "We cannot move because we do not have fuel. So, could you, please, fuel the vehicle so that we go and assist you?" Could the Assistant Minister be specific and give specific solutions that are going to assist those police stations to act during emergencies?

**Mr. Munya:** Mr. Deputy Speaker, Sir, I have already outlined the measures that the Ministry is taking to make sure that there is no shortage of fuel. I have outlined those measures and I do not think it is necessary to repeat them. What I would like to emphasize is that, if you look at the budgetary allocation for this year, you will see that we were given Kshs160 million. That is below the projected estimate of Kshs360 million. So, we are left with a deficit of Kshs200 million. We have already written to the Treasury to explain that predicament. We need more money to make police work easier. But I have already outlined the measures. We want the police to prudently spend their money. They should also use their communication gadgets to take charge of situations, without necessarily using vehicles to travel. We are also putting up police posts in areas where crime incidents are high, so that we do not have policemen travelling from police stations to those areas. We should have police presence in those particular areas. So, those are some of the measures.

The other measure is to make sure that Authority to Incur Expenditures (AIEs) arrive on time. We will also come up with special AIEs that could be used during the period before the Treasury has released the cheques and AIEs, so that we are able to have fuel throughout the year in the police stations.

**Mr. Deputy Speaker:** The Member for Molo! Hon. Members I have only five minutes for Question Time.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, we passed a very big budget for this Ministry. I think they should put much of the money towards the mobility of policemen. The AIE holders are Provincial Police Officers (PPOs) and Officers Commanding Police Divisions (OCPDs).

Sometimes, Officers Commanding Stations (OCSs) do not get their fuel allocations. For instance, the OCS for Njoro in my constituency - and that is one of the divisions - only gets fuel to move him from Nakuru to the police station. That is the fuel he is supposed to use for operations. Could the Assistant Minister change the AIE holders, so that we do not have PPOs and OCPDs being the AIE holders? It should go to the level of OCS. That is because the PPOs do not give enough fuel to OCSs.

**Mr. Deputy Speaker:** Mr. Mukiri, you have asked your question again!

Mr. Assistant Minister!

**Mr. Munya:** Mr. Deputy Speaker, Sir, it is a general practice in the Government. It is not just the police. The AIE holders are at the district level. But the fact that the accounting officer is the OCPD does not mean that the OCS is prevented from spending the money. That is because there are fuel stations where they are supposed to get fuel supply constantly. So, the OCPD is for the purposes of accounting and supervision; to make sure that the allocation is not misused. That is given the fact that we have very little fuel available. We would want to have prudent use of the fuel. But we are putting pressure on the Ministry of Finance to allocate us more money for that purpose. We are acknowledging that what we are given is not enough to make the means, especially given the fact that, crime incidents that are not expected arise. That consumes more than what is budgeted. So, we are already putting pressure on the Ministry of Finance to give us more allocations to meet the demand.

*(Mr. Wambora entered the Chamber)*

**Mr. Deputy Speaker:** Thank you, Mr. Assistant Minister. I think the Member for Runyenjes has come! Could we ask him to ask his Question?

*Question No.353*

AMOUNT OF MONEY RELEASED TO FARMERS  
FROM COFFEE DEVELOPMENT FUND

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

(a) how much money has been released to date for lending to coffee farmers under the Coffee Development Fund; and,

(b) what the interest rate to the coffee farmers and the repayment period is.

Mr. Deputy Speaker, Sir, I am very grateful. I was held up in a traffic jam.

**Mr. Deputy Speaker:** Mr. Wambora, you have not apologised!

**Mr. Wambora:** My apologies, Mr. Deputy Speaker, Sir.

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

(a) To date, a total of Kshs600 million has been released for lending to coffee farmers under the Coffee Development Fund. An amount of Kshs100 million was released in October, 2006, and it has already been loaned to farmers. An amount of Kshs500 million was released to the organisation in June, 2007 and it is being prepared and processed for onward lending to farmers.

(b) The interest rate charged is 10 per cent *per annum* on a declining balance, with a repayment period of 12 months.

**Mr. Wambora:** Mr. Deputy Speaker, Sir, farmers support Coffee Development Fund. We have also supported it through Motions and debates. I am grateful to the Assistant Minister for finally fulfilling the farmers wishes. But we have heard that the interest rate is ten per cent *per*

*annum*. That is very high, indeed, and the repayment period is only 12 months. That is only one coffee season. Could the Assistant Minister consider lowering the interest rate to 5 per cent and increase the repayment period to three years?

**Mr. Kaindi:** Mr. Deputy Speaker, Sir, I want to inform the hon. Member that, that is a newly-introduced facility for farmers. The first Kshs100 million is purely for advances. Yes, I have also noticed that the coffee cycle is more than 12 months. We have discussed that with the organisation, so that they could consider extending that time. But I also want to confirm to the hon. Member that, after the advances, we will develop the next tranche to a medium phase where farmers could borrow the money and repay in three years for rehabilitation of coffee factories and other infrastructure.

**Mr. Mwanicha:** Mr. Deputy Speaker, Sir, coffee is a perennial crop. If you are to develop a coffee crop after pruning or, say, develop a new variety of coffee, it will take much longer, for example, up to three years, to realise any crop. Is the Assistant Minister satisfied, in his own thinking, that the terms as they are, that is, one year for repayment of only 10 per cent are enough? If not so, what is he going to do?

**Mr. Kaindi:** Mr. Deputy Speaker, Sir, I do not want to appear to repeat myself. I have indicated that the advances were purely to address the problems we were having within the sector. Yes, we have noticed that 12 months is a very short time. We have discussed with the organisation and they are reviewing that particular position. However, I am also saying that we are going to develop Phase II as a medium-term where these loans can be repaid within two to five years.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, the problems that face coffee farmers is when there is a crop failure as a result of bad weather and other natural catastrophes. Is the Ministry going to subsidise farmers, particularly when there is crop failure caused by natural phenomena?

**Mr. Kaindi:** Mr. Deputy Speaker, Sir, I think the hon. Member is aware that, recently, we waived monies owed to co-operative societies. It is our responsibility, as a Ministry, to ensure that we look at some of those emergencies as they occur. Part of this money will address those emergencies so that farmers can be cushioned against some of the calamities that may occur.

**Mr. Deputy Speaker:** Last question, Mr. Wambora!

**Mr. Wambora:** Mr. Deputy Speaker, Sir, the Assistant Minister does not need to reinvent the wheel. We have a very effective model. Could he model the Coffee Development Fund (CODEF) along the STABEX funds whereby the terms are very favourable to the farmers? The interest rate is 5 per cent, and the repayment period is three years for individual borrowing. This is because CODEF is asking farmers to team up into ten members, but that is not necessary.

**Mr. Kaindi:** Mr. Deputy Speaker, Sir, there are two things about that matter. One, as a matter of fact, STABEX is a sinking Fund now. However, we also have experiences that we learnt from STABEX. The problem is that this Fund is now--- As time goes on, we are going to expand the sources from which this Fund will derive its funding. We are discussing with the African Development Bank (ADB) and other organisations to see whether we can improve on the revenue base for this Fund so that we can look at the other modalities of how to ensure that the Fund is sustainable and whether it is possible to lower the interest rates at that stage.

**Mr. Deputy Speaker:** Thank you, Mr. Assistant Minister. Hon. Members, that is the end of Question Time!

Yes, Mr. Kagwima!

## POINT OF ORDER

DISPARAGING REMARKS AGAINST  
THARAKA COMMUNITY

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I would have wished the Leader of Government Business to be here, but unfortunately---

**Mr. Deputy Speaker:** Mr. Kagwima, you said that you wanted to ask for a Ministerial Statement. Were you asking for it from Leader of Government

**[Mr. Deputy Speaker]**

Business or was it from a particular Minister?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I stand to seek a Ministerial Statement from the Minister of State for Administration and National Security. At the same time, I want to request the indulgence of the Leader of Government Business because of a statement made by two Government Ministers. I take that statement as one from the Government.

Mr. Deputy Speaker, Sir, the statement comes from none other than hon. Kiraitu Murungi and hon. Peter Munya to the effect that in the next few days, Tharaka community will be treated like *Mungiki* and the Government will send enough forces to deal with them because they have been a menace over the years.

Mr. Deputy Speaker, Sir, I want the Minister to come out---

**Mr. Deputy Speaker:** Mr. Kagwima, could you, please, stop there? When you approached the Chair, I did not get that impression because the Chair has ruled many times that the House should not be used to incite communities. Now, you are talking about Tharaka community being shot at like *Mungiki*. That is a far-reaching statement which can have very serious security implications in this country. I would not like anything to come to this House, which will give the impression to any community, that there is some incitement. I do not wish to allow that.

I want you to discuss this matter with me first. What do you think the Tharaka community would think or feel, if they heard what you just said on the Floor of this House that it was alleged that they were going to be shot at like *Mungiki*? You are not being specific, in fact, you are just saying that they said that members of the Tharaka community are going to be shot at. I think that is a very serious matter and it should not come from the Floor of this House.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, that is why I am humbly requesting the Government to come out clear on this issue because it was said in Meru and Tharaka people were there.

**Mr. Deputy Speaker:** Mr. Munya, what do you want to say about that? I do not want a debate on this matter until we discuss it, if it goes to that extent.

**The Assistant Minister, Office of the President (Mr. Munya):** Mr. Deputy Speaker, Sir, there is no such statement that was made anywhere in Meru. We had a meeting in Meru where most of the Members of Parliament from Meru were attending, including hon. Kiraitu and myself. The meeting was discussing a report---

**Capt. Nakitare:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has asked for a Ministerial Statement. Is the Assistant Minister in order to clarify what is supposed to be prepared and brought to the House?

*(Loud consultations)*

**Mr. Deputy Speaker:** You know there are no rules about that. If a Minister wishes to make a Statement, he or she can make it without having to write it down. However, the point here is that the argument the hon. Members want to get into may appear to have some inciting effect on the community. I would like to discuss this matter in my Chambers with Mr. Munya and Mr. Kagwima first before it goes to that extent.

**The Assistant Minister, Office of the President (Mr. Munya):** On a point of order, Mr. Deputy Speaker, Sir. Since the statement has been made, I thought that it would be fair to just make a clarification because what will appear now in the newspapers is that hon. Kiraitu and I made

those very scandalous statements that the hon. Member is alleging.

**Mr. Deputy Speaker,** Sir, there were no such statements. We were receiving, in a meeting which was attended by all the District Commissioners (DCs) and the Provincial Commissioner (PC), a report of a committee that was appointed by the leaders of Meru, including hon. Kagwima, to look into boundary problems that have always caused insecurity in Meru. All we did was to receive and adopt that report. Nobody has said anything to the effect that anybody will be treated as *Mungiki*. Those are inventions of hon. Kagwima.

**Mr. Deputy Speaker:** Mr. Kagwima, were you in that meeting?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Mr. Kagwima, I asked you a specific question. Were you in that meeting?

**Mr. Kagwima:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Mr. Kagwima, did you discuss those issues in that meeting?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I am sure I heard the two---

**Mr. Deputy Speaker:** The question is: If those statements were made in that meeting, did you discuss them? Did you discuss the element of that allegation you are making in that meeting?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I stood up and got a chance. I protested very strongly and walked out of the meeting because I could not stand what was going on.

**Mr. Deputy Speaker:** So, Mr. Kagwima, we would not like that meeting of Meru to be transferred to this House so that whatever you wanted to articulate in the meeting and you were unable, you want to articulate it here, and then it has some other repercussions. So, let me discuss the matter with you.

**Mr. Kagwima:** On a point of order, Mr. Deputy Speaker, Sir. I agree that we will come to your Chambers, but when the security of Kenyans - Tharaka people are Kenyans - is threatened, this House has a responsibility to protect that community!

**Mr. Deputy Speaker:** You are right. Mr. M.Y. Haji is standing on a point of order!

**Mr. M.Y. Haji:** On a point of order, Mr. Deputy Speaker, Sir. In view of this serious implication on security matters, I wonder whether the hon. Member can produce any minutes of the discussions or Press reports. They can then come and discuss them with you. This issue should not be dismissed and taken lightly. It is alleged that plans are under way to wipe out an entire community the *Mungiki* style.

**Mr. Deputy Speaker:** Order, Mr. M.Y. Haji! You know very well that I take this matter very seriously, especially having been in your former profession. However, the Chair is saying that there was a Meru leaders' meeting which was attended by hon. Members of Parliament, including Messrs. Kagwima and Munya. Now, all I am trying to say is that I was not there. Again, we do not know what transpired because we do not have the minutes of that meeting. The point that Mr. Kagwima is raising is actually dangerous. It can invite even more serious consequences. All I am saying is that if I find that there is justification--- Or perhaps its Mr. Kagwima who did not put it right. The way he put it can have very serious repercussions on security in Meru.

He wanted a Statement and said that the community was going to be wiped out. To me, that is dangerous. Unless I am very clear in my mind what the hon. Member wants to achieve, I will not allow such a matter to be debated in the House.

**Mr. Ligale:** On a point of order, Mr. Deputy Speaker, Sir. It would appear we have a choice between the report from Mr. Kagwima and the Assistant Minister. In that meeting, the Provincial Commissioner (PC) and the chief of security intelligence must have been there. I suggest that you try and get an independent assessment from the PC and the security intelligence to know who is telling us the truth.

**Mr. Deputy Speaker:** Be that as it may, I still want to meet Messrs. Kagwima and Munya



in my Chamber, so that we discuss. If possible, we would see how to go about this matter. This is not a light matter.

**The Assistant Minister, Office of the President** (Mr. Munya): On a point of order, Mr. Deputy Speaker, Sir. I am in agreement that we can meet in your office. However, it is important that I make it very clear that there is no plan anywhere by the Government to kill Tharaka people. I want to make that very clear. **Mr. Deputy Speaker:** Or anybody, for that matter?

**The Assistant Minister, Office of the President** (Mr. Munya): Or anybody for that matter. There is no such plan. I can assure the House that will not happen. We, as Government, have never planned to clear any community, let alone the Tharaka people. I do not know how else I can prepare to make that kind of a Statement. I am already assuring the House that there is no such plan and no such statement has been made.

**Mr. Deputy Speaker:** Mr. Kagwima, are you satisfied?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I am happy with that Statement. I hope that it will be practised---

**Mr. Deputy Speaker:** Therefore, then you rest your case. You do not need to come to my Chamber. Thank you very much.

*(Applause)*

**Mr. Kagwima:** Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Sorry, Mr. Kagwima, I thought you said it is okay?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, that gives us a temporary measure. We will come to your office then you will understand the differences between us. Then he can

withdraw the statement that he said he made---

**Mr. Deputy Speaker:** No! No! I think you misunderstood me. It is not a reconciliation meeting that I am calling you for in my office! As far as the Chair is concerned, there has not been any problem in the House. I can only intervene to reconcile you if you have problems in the House, but *huko nje*, I will not bother.

Mr. Kagwima, I want us to be very clear; the Assistant Minister has assured you of what you wanted to be assured about. What else do you want us to do?

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, maybe to help the House and the Chair, as I speak now, *mhe*. Assistant Minister in charge of security is already putting in place two Administration Police camps in my constituency. Leave alone what he is saying, he is already putting up two camps for the police to carry out that mission. That is why I insist on more details---

**Mr. Deputy Speaker:** Mr. Kagwima, let us discuss this matter out of here!

Next Order!

## MOTIONS

### A BILL TO AMEND THE PENAL CODE

THAT, aware that the Penal Code provides for the sentence of death as a form of punishment that may be imposed by a court of law; further aware that the Constitution upholds the sanctity of life; this House grants leave to introduce a Bill for an Act of Parliament entitled the Penal Code (Amendment) Bill to amend Sections 25, 40(3), 204, 296(2) in order to abolish the death sentence.

*(Mr. Ahenda on 25.7.2007)*  
*(Resumption of Debate interrupted*  
*on 25.7.2007)*

**Mr. Deputy Speaker:** Hon. Members, last week on 25th, July, 2007 this Motion was moved, seconded and a number of hon. Members contributed. The last hon. Member, who was on the Floor was Capt. Nakitare. He has five minutes to continue with his contribution. The Motion has one hour and five minutes remaining.

Capt. Nakitare, please, continue!

**Capt. Nakitare:** Mr. Deputy Speaker, Sir, when we talk about crime and justice, it does not carry two faces. We know very well what happened in Oklahoma, when an individual bombed and killed innocent children in school. The result was that he also paid by death through lethal injection. We are talking about a developed country which deals with hard core criminals.

Mr. Deputy Speaker, Sir, when the death sentence was introduced in this country, there must have been hard core criminals. In 1998, elaborate hard core criminals bombed our city of Nairobi. What if these people were arrested and brought to justice and sentenced to death in a similar circumstance that they killed innocent people, would the human rights people come up and say, "forgive them"? It is an elaborate issue. It is not a two-faced case when justice has to be done.

Mr. Deputy Speaker, Sir, it is appalling when we discuss the life of an individual. An innocent person's life is valuable. A criminal's life is also valuable. But what pains when an innocent life is lost through criminal activities? I definitely do not understand and do not agree with Mr. Ahenda that we should abolish death sentence in this country. Death sentence has always been highlighted in newspapers and it has scared many people. In some cases, some people say that whereas there is the death sentence, it does not deter murder or crime. Do we have to wash away the legal justice that deals with crime? Are we advocating for clemency of criminals?

Mr. Deputy Speaker, Sir, Prof. Guya Bwayo was gunned down in Kiserian by the so-called highway robbers. We have never seen these people brought to book although we were told that they were arrested. We, of Bwayo's family, who were bereaved, and especially me who was his classmate, what do we think about justice *vis-a-vis* crime in this country? When Abel and Cain had a crime between them, what did God say to Cain? He said: "Your brother's blood is crying to me from the soil." That is what he told Cain. In Islam, there is a law that a murderer faces similar justice. The same applies to the Jews. So, what is the difference between those people who are cited in the Bible and us, in the modern days?

Mr. Deputy Speaker, Sir, it has been a habit in this country to imitate some substandard rules and regulations from countries which do not experience high technology crimes, like there are in this country. Since we have softened the law, that is why there is crime everywhere in the world. For example, there is a lot of crime on Kenyan highways.

Mr. Deputy Speaker, Sir, the Penal Code is a supportive instrument that helps lawyers to engage and arrive at an agreement when a crime involving death has occurred.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to oppose this Motion.

**Mr. Ochilo-Ayacko:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this very important Motion.

I want to thank the Mover of this Motion for bringing a Motion that is going to grant leave to him to bring a Bill to this House, to abolish capital punishment. In this country, capital punishment is permissible for three sets of offences. They are: Treason, murder and robbery with violence.

Mr. Deputy Speaker, Sir, everybody knows that everyday, one person or many people get murdered. Murder has become a very prevalent offence. Likewise, robbery with violence is occurring by the hour. This is in spite of the fact that all Kenyans are aware that if you murder or rob any person violently, you stand or run the risk of being hanged. Now, that shows that the mere presence of the provision to hang a murderer or violent robber, in itself, does not deter people from committing acts of murder or robbery with violence.

The act that has not been repeated in this country, is that of treason. One reason Kenyans do not get involved in treasonable activities is because the Government is the official monopoliser of violence. Generally, treason is futile because you cannot mobilise sufficient forces to be able to take on the Government. Since the Government has the police force, Criminal Investigation Department (CID) and army, no soul in Kenya is able to conceive treason and try to execute the same against the Kenyan Government.

Again, there are other reasons why Kenyans do not involve themselves in treasonable activities. I think this is a country that believes in regular elections and competitive politics. So, Kenyans do not think of changing governments other than through political competition. That has discouraged them from getting involved in treasonable activities.

So, any person who says that the presence of hanging in our Statute books is a deterrent to the commission of capital offences, is getting it wrong. This is because for the time that this country has been in operation, people continue to commit acts of murder and robbery with violence undeterred. That shows very well that it is not the pain involved in hanging people or potential of hanging people that is the deterrent, but it is much more than that. So, the proponents of capital punishment who say that the fact that the potential to hang a person will discourage that person from committing that act, are getting it wrong.

Mr. Deputy Speaker, Sir, we have, in our criminal system, adversarial system on dispute resolution. We have the prosecution and defence. More often than not, you will find that people who are taken to court under suspicion of committing capital offences, do not have the means the afford good lawyers. They are also without the means to represent themselves sufficiently before the courts of law. So, the mere fact that a court of law, be it the High Court or subordinate court, would find a person guilty, does not in itself show that procedure was scientifically followed or the person committed that offence. What it shows is that the court arrived at the conclusion that based on the evidence that was presented before that court, the court has found that person guilty of that specific offence.

Mr. Deputy Speaker, Sir, we know very well that our courts are presided over by human beings. Particularly, courts of first instance, are presided over by magistrates and prosecutors who are lowly paid. So, the kind of job that is done by these people, cannot be above reproach.

The cardinal principle in the Penal or criminal system is: It is better to let guilt escape than to punish innocence; moreso, if the punishment is one that is irrevocable. In fact, the purpose for which we have governments in the world, is to preserve life. If there is any doubt that a life will be taken on the basis of evidence, that was not properly tested, then we should not give an excuse or opportunity to any institution to take away the life of an innocent person.

Mr. Deputy Speaker, Sir, the world history is replete with situations where people were executed for offences that they never committed. You will recall that people like Plato and Socrates were executed and, later on, it was found out that the offences for which they were executed, were basically the truth that they stood for. You will remember that even in South Africa, at the height of Apartheid, when the regime was most oppressive, the likes of Nelson Mandela, Robert Sobukwe, Walter Sisulu were not sentenced to death or be hanged by the neck until pronounced dead. If they had in their Statute books death sentence and were able to sentence these people, I am sure countries like South Africa would not have benefitted from their wisdom.

I know that somewhere in the historical parts of the Bible, like the Acts of Apostles, people like St. Paul were executed. But remember that the New Testament has very many books that were written by St. Paul. Perhaps, if he was not executed, he would have written more letters to the Corinthians and Galatians, and the Bible would be richer today. People like St. Peter were executed because of the existence of death penalty.

I think that the abolition of death penalty is something that this country must approach. We must abolish it, basically, because the reason for punishment is deterrent.

Mr. Deputy Speaker, Sir, punishment should deter the wrong-doer from repeating the offence if it can be scientifically proved that the wrong-doer committed that offence. It should also deter people with such dispositions from engaging in similar acts. If you sentence somebody to death and eventually execute that person, you do not give that person an opportunity to atone for his sins or to repent and, therefore, get God's blessings during the day of judgement.

Because of some of the errors that are there in the penal system and some of the faults that we have in the evidence that is adduced before court, and generally, the society is poor and cannot afford to pay good lawyers, there is a possibility of breaching the cardinal principle in criminal justice and punishing innocence and letting guilt escape, particularly if the guilt is able to afford a defence for itself. This should make us abolish the provisions of capital punishment in our books.

Mr. Deputy Speaker, Sir, I have said and I want to repeat that Kenyans do not commit acts of treason because they believe in regular elections and they know that it is not possible to mobilise enough forces and sufficient public goodwill to overthrow a democratically elected Government. Kenyans do not engage in treason because if you are found doing so, you will be hanged. Otherwise, Kenyans would not, by the day, engage in acts of murder. You know that *Mungiki* is all over this country trying to butcher people. They are aware that if they are caught, they will be hanged, but they continue doing it because the existence of hanging in the statute books in itself is not a deterrence to capital punishment. I believe that a good society is a society that leaves vengeance to God and does not revenge against people.

With those few remarks, I beg to support.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion.

The death penalty is a very emotive subject. If you may recall, a Motion like this one was brought to this House in 1995 by hon. Murungi, and we had some religious-leaning Members here who nearly physically roughed him up in opposing the Motion.

Mr. Deputy Speaker, Sir, I stand to oppose this Motion because in my view, it is not founded on any reason. The foundation of the death penalty, first, is in the Constitution. This is in Section 71 of the Constitution. This should have been the first legal instrument of assault by Mr. Ahenda. It is the Constitution that allows the death penalty. The Penal Code finds authority in the Constitution. Changing any sections in the Penal Code does not, in any way, abolish the death penalty.

Under the Criminal Procedure Code, punishments that can be meted by a competent court of law are listed and even if you amend the sections that the hon. Member is seeking to amend in the Penal Code, the Criminal Procedure Code will have been left intact. It still will provide for the death penalty and that death penalty will still have foundation in the Constitution. So, even if we pass this Motion, it is just rhetorical. It will not achieve anything.

Mr. Deputy Speaker, Sir, secondly, the death penalty always elicits a lot of emotions. In fact, in many parliaments, when a Motion or a Bill is brought on the death penalty, even party whips free their hon. Members to vote on moral grounds. This is because this is a moral issue. The fact that the death penalty has not been administered and robberies and homicides continue occurring, is an indictment to the police and the administration of justice system and not on the law itself.

If you go to America today, you will find that in the last ten years, more than 15 States have reinstated the death penalty in the book. In South Africa today, there is a major public debate. If you recall, there was a case of a white racist, who two years ago, got hold of his black worker, tied him on a pick-up and drove with him rolling on the ground until he died. People woke up and wondered what to do with such a crude hard-nose racist. There is a debate going on. Hon. Ahenda should ask himself one simple question: What would have been the public opinion in this country, if we found the man who drove the truck into Ufundi House that exploded at the American

Embassy and killed 250 Kenyans? What would have been the court of public opinion? Would you have said: "Let him go?"

Mr. Deputy Speaker, Sir, we have recently lost very important people in this country. I am not saying that any life is less important. Thugs are gunning down people by the day. The fact that they do not go through the due process and get convicted and hanged, does not mean that the law is ineffective. It is just, as I said, an indictment to the administration of justice system. Even in the Bomas Draft, if you recall, the first draft did not carry the death penalty. The delegates that assembled in Bomas unanimously reinstated the death penalty in the Draft Constitution.

In fact, my colleagues across the Floor, when they were campaigning against the Wako Draft, they were busy dis-informing the public that the Government had removed the death penalty. It is shocking that now, the same hon. Members can stand here and say that they want to remove the death penalty. We have to be honest to ourselves and to the country. In a matter as important as this one, I will be the last person to support that this House will be the only one to have a last say on the death penalty. This is a matter for all Kenyans to talk about. In normal circumstances, the death penalty alone is a matter that we must take to the public to pass a verdict and say whether we should retain it in our books or not.

Mr. Deputy Speaker, Sir, I know that there is a spirited campaign through the Non-Governmental Organisations (NGOs) and other organisations and their driving force is not because they are interested in the death penalty or its absence; the driving force is to continue attracting funding from some foreigners who pursue the agenda.

It is the wearer of the shoe who knows where it pinches. Each and every hon. Member here has encountered a situation whereby you feel that due process must take place, but also that the death penalty should be there.

Mr. Deputy Speaker, Sir, I want to ask my good friend, Mr. Ahenda: I read about a child molester in Namibia. A man took his six month old twin kids; a boy and a girl and bestialised them to death. He sexually assaulted his six month old children; a baby girl and a baby boy to death. What would you do with such a man? You will find that he is mentally sound and that he knowingly and wilfully committed such a beastly act and you say that in the name of human rights, "give him another chance"? I do not think so. I am sure Mr. Ahenda will think twice about bringing such an ill-founded, ill-informed and misguided Motion to the House because it does not serve any useful purpose to the people of this country.

We must continue having a deterrent. After due process, we must continue making necessary and relevant penal punishments to criminals. Every so often you hear that somebody is driving in the streets of Nairobi and crude boys take away his life using crude weapons. They do this to take a mobile phone from you.

Mr. Deputy Speaker, Sir, when I went to Kenyatta National Hospital after the shooting of Prof. Bwayo, I found a young boy who had been savagely cut with crude weapons as the thugs tried to take a mobile phone from his hands. A mobile phone!

**An hon. Member:** Imagine!

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): What do you do with such people when you catch up with them?

**An hon. Member:** Kill them!

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): I am sure Mr. Ahenda has the answer and it is not in his Motion. Since this is a popular Motion, I am sure there are many colleagues who also want to contribute.

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

**Mr. Deputy Speaker:** Hon. Members, I am in a predicament. I only have nine minutes remaining before the Government Responder responds at 10.50 a.m. So, nine minutes will not be enough for all of you, but at least you can share the ten minutes if you wish as Mr Wetangula has

done. He has not finished his time. If I could give Mr. Syongo a few minutes, Mr. Wamwere the remaining to 10.50 a.m. and then the Government Responder.

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

I can see my learned friend there. Hon. Members, you can share the remaining time the way you wish. Mr. Marende is still there.

**Mr. Syongo:** Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to oppose this Motion. There is sufficient scientific evidence proving that criminal tendencies including murderous tendencies are intrinsically genetic. If we continue to allow people with those characteristics to roam our streets, we will simply give them the chance to continue to breed more of their type in order to continue committing such crimes.

In China where they do not have the death sentence, at least criminals are castrated and forced to work, providing free labour in public works such as building roads and bridges.

Mr. Deputy Speaker, Sir, it has been alleged that murder continues in spite of the presence of the death sentence in our Statute Books. I want to suggest that this continues because of the failure in the administration of law. These people continue to enjoy free food and beddings in prisons and police custody after they have committed such crimes, for an indefinite time. It is the failure of the administration of law and justice that is encouraging more of such criminal activities.

Mr. Deputy Speaker, Sir, due to shortage of time, I want to oppose this Motion and strongly recommend that this House rejects this Motion.

**Mr. Deputy Speaker:** Mr. Wamwere, I have got only six minutes remaining. If you could share your time with Mr. Marende.

**The Assistant Minister for Information and Communications (Mr. Wamwere):** Bw. Naibu Spika, ninasikitika kwamba hatuna muda wa kutosha kwa sababu ningependa kusema mengi kuhusu kwa nini hukumu ya kifo haihitajiki katika nchi hii.

Kwanza, makosa hufanyika na watu ambao hawana hatia wameuawa. Wale ambao wanafikiria ya kwamba kwa sababu mtu amekufa aliyemua lazima apewe hukumu ya kifo, wanaongea kama hawajui kwamba kuna aina zingine za adhabu ambazo zinaweza kuzuia uhalifu. Sio lazima mtu auawe ndio tuzuie uhalifu. Isitoshe, kama umemua mtu, huwezi kumurekebisha tena. Ukikosea na umuue mtu ambaye hana hatia, hayo makosa hayawezi kurekebisha. Huyu mtu atakuwa amekufa bure.

Mimi mwenyewe nilikabiliwa na hukumu ya kifo mara mbili. Wakati mmoja nilishtakiwa na kesi ya uhaini kwa kutafuta uhuru huu wa pili. Kama ningeuawa, singekuwa hapa nikiongea. Labda huo uhuru wa pili ungekuwa vigumu kupatikana kama wote ambao walikuwa wanaupigania wanguuawa.

Bw. Naibu Spika, pia nilishtakiwa kimakosa kabisa kwamba nilivamia kituo cha polisi na nikawekewa tena kesi ya hukumu ya kifo. Tunasema kuwa sisi ni wakristo katika nchi hii, lakini tunasahau ya kwamba kama sio hukumu ya kifo Yesu hangeuawa. Yesu aliuawa kwa sababu ya hukumu ya kifo kama hii ambayo Wakristo walio hapa wanaitetea.

Kama hatungekuwa na hukumu ya kifo katika sheria zetu, labda hata sasa Dedan Kimathi angekuwa hai. Watu wengine wa kikundi cha Mau Mau waliouawa wakipigania Uhuru, walikufa kwa sababu ya hukumu ya kifo. Tuliletewa sheria hii na wakoloni na tukaichukua tuu.

Bw. Naibu Spika, ukiangalia sheria za jadi, nyingi hazikuwa na hukumu ya kifo. Kulikuwa na kutoa ng'ombe au mbuzi lakini watu hawakuuawa. Jambo hilo lilikuwa nadra sana. Lazima tukumbuke maneno ya Mahatma Gandhi aliyesema kwamba: "Tabia ya jicho kwa jicho itaacha taifa nzima likiwa pofu." Kwa hivyo, tusione kuwa kulipiza kisasi ni kufanya haki.

Fikira kama hizi za kutaka kuuwa kwa sababu ya makosa ndizo zinasababisha washukiwa kuuuawa na polisi hata kabla ya kupelekwa mahakamani. Watu wanakufa kwa wingi. Kama

tungekuwa watu ambao wanaelewa kwamba sio lazima mtu auawe kwa makosa, hata wahukumiwa ambao wanauliwa wakati huu labda hawangukuwa wakiuawa.

Kuna wale ambao wanasema mtu akiwa mhalifu lazima auawe hata kama hajafanyiwa kesi. Wengine wanasema mtu akiwa katika kundi la *Mungiki* lazima auawe. Hakuna sheria ambayo inasema kuwa mtu akiwa katika kundi la *Mungiki* au *Taliban* lazima auawe.

Bw. Naibu Spika, ninaunga mkono Hoja hii na ninatumai kuwa hata Bw. Naibu Spika ataiunga mkono.

**Mr. Owino:** On a point of order, Mr. Deputy Speaker, Sir. Considering the mood of the House, since almost everybody is opposing this Motion, could I ask the Mover of this Motion to withdraw it?

**Mr. Deputy Speaker:** Mr. Owino, you are out of order. I still have two minutes of debate.

**Mr. Marende:** Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. Although Mr. Ahenda is my neighbour, we differ on this particular issue. I stand to oppose this Motion.

I oppose the Motion because the arguments advanced to support this Motion are at best frivolous, vexatious and in my view, mischievous.

Mr. Deputy Speaker, Sir, these are words that are provided in the Criminal Procedure Code, and they are there for lawful work. The death sentence has constitutional anchorage. It has a constitutional anchorage for good cause. As a matter of fact, we have information that the rate of violent crime has been on the increase because we have been hesitant to carry out the death sentence.

*(Applause)*

Since 1985, the death sentence has not been effected for reasons that are not apparent. In fact, this Government should move away from the phobia of fearing to carry out the death sentence.

Mr. Ahenda may talk like he is talking now because he has not had, perhaps, a close relative of his killed in circumstances that are unspeakable like today's slaughtering in the streets. The answer is in---

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

**Mr. Marende:** Mr. Deputy Speaker, Sir, with those few remarks I, therefore, beg to oppose.

**Mr. Deputy Speaker:** The Government Responder has 20 minutes.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, with your permission, may I donate three minutes to Messrs. Mungatana, Ndile and Dr. Khalwale.

**An hon. Member:** Where is Dr. Khalwale!

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): He is over there!

**Mr. Deputy Speaker:** Very well! Let them proceed in that order!

**The Assistant Minister for Wildlife and Tourism** (Mr. Ndile): Bw. Naibu Spika, nasimama hapa kupinga hii Hoja. Nataka kumkumbusha rafiki yangu, Bw. Wamwere, kwamba Yesu asingalikufa, asingalisamehewa dhambi. Kwa hivyo, ulikuwa ni mpango wa Mungu kumleta mwanawe hapa afe ili tusamehewe dhambi.

Nashukuru kwa sababu juzi nilimwona Agwambo akiombewa na wachungaji. Mtu akiamua kutenda maovu--- Najua kuna korti ambalo huchunguza kama aliua au la. Ikiwa aliua kwa bahati mbaya, korti lina uwezo wa kumsamehe, lakini inaweza kuwa alipanga, kama waliotaka kupindua Serikali na tukawapoteza watu wengi. Watoto wa vyuo vikuu walikufa, na hata watu wengine, ambao hawakuwa na hatia. Ni nani aliowaongoza? Hata juzi nilifikiri Agwambo angeombewa na hao wachungaji, kwanza asamehewe dhambi kwa sababu ya kuunga mkono jambo

hilo. Nilimwona akiombewa kule Kisumu, lakini badala ya kuombewa asamehewe dhambi, aliombewa eti awe rais. Nasema wangenyongwa kwa sababu ni lazima mtu akiamua kuuwa mwingine naye achukuliwe hatua.

Tulipokuwa Bomas, Wakenya walikataa na wakasema kuwa hawawezi kumkubali mtu ambaye--- Kwa sababu mtu ataanza kuuwa na kusema: "Hutanipeleka popote"!

Kwa hayo machache, siungi mkono.

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Mungatana): Mr. Deputy Speaker, Sir, I want to thank Ms. Karua for giving me these three minutes to also make my opinion known on this matter.

I come from a rural constituency which some time, like ten years ago, we had known a lot of violence that was perpetrated by some people.

*(Mr. Wamwere crossed the Floor  
without bowing to the Chair)*

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Did you see Mr. Wamwere? He just walked across the Floor without bowing to the Chair. **The Assistant Minister for Information and Communications** (Mr. Wamwere): I bowed!

**Mr. Deputy Speaker:** Order, Mr. Wamwere! Would you do what is required of you?

**The Assistant Minister for Information and Communications** (Mr. Wamwere): Absolutely!

*(Mr. Wamwere bowed to the Chair)*

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Mungatana): Mr. Deputy Speaker, Sir, during those days, there used to be a lot of violence that was perpetrated against communities in the area; we knew of a lot of insecurity in that part of the country, in Tana River. I was involved to the extent of trying to assist the people who were affected. When you meet face to face with people whose houses have been burnt, their children displaced, women raped and then you are told that so-and-so were the perpetrators, and you see the way the public reacts to them, it would be unwise for us, today, to say that we should abolish the death sentence.

So, I stand here to oppose this Motion and ask the House to oppose the Motion that seeks to abolish the death sentence.

With those few remarks, I beg to oppose.

**The Assistant Minister for East African Community** (Dr. Khalwale): Mr. Deputy Speaker, Sir, allow me to thank Ms. Karua for donating to me these three minutes.

I wish to appeal to hon. Members that we oppose this Motion, because if we do not do so, once again, we are going to be given another undesirable label. Hon. Members know that we have been called very many names, as the Ninth Parliament, like thieves and other names. I think we also do not want to be called a Parliament that rewarded murderers. That is a title that we can do without.

This is a Motion that is satanic because it goes against the Bible, which clearly says, in the Tenth Commandment, that though shall not kill. The Bible also goes on to say that those who live by the sword shall die by the sword. This Motion goes against the cultures of many communities in this country, among them the Luhya community, which is very clear that once you kill, you meet the same fate.

Mr. Deputy Speaker, Sir, I visited the website on Mr. Ahenda, I found that this is an innocent Luo boy who grew up in Luoland but only had two-and-a-half years in the United States



of America. Maybe that is the country where he ended up falling in love with murderers. If that is the case, I want to appeal to him that his two years in America did not change him from being a Kenyan. He is just an ordinary Luo man, a culture that does not welcome murderers. Mr. Ahenda should stand up and oppose his own Motion.

Finally, may I tell hon. Members that what is driving Mr. Ahenda is populism. There is so much at such a time when we are facing voters like the desire to want to be popular. To try and advance this popular Motion is nothing different from these populist things like pro-abortion, the gay---

**Dr. Oburu:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to impute improper motive against another hon. Member by saying that he is---

**Mr. Deputy Speaker:** "Mr. Khalwale!"

*(Dr. Khalwale sat down)*

Dr. Khalwale! I noticed that when I refer to you as "Mr. Khalwale" you do not respond. Dr. Khalwale, would you respond to Dr. Oburu?

**The Assistant Minister for East African Community** (Dr. Khalwale): Mr. Deputy Speaker, Sir, with all due respect, the hon. Member has put it in black and white and sought the leave of the House---

**Mr. Deputy Speaker:** You were given three minutes!

**The Assistant Minister for East African Community** (Dr. Khalwale): Mr. Deputy Speaker, Sir, it shows that he is, indeed, in his own mind, committed to populism. We cannot be populists, because if you let this Motion go through, you will be rewarding rapists, who will end up killing women because they resisted rape. You will be rewarding violent robbers and the friends of Mr. Wamwere, the *Mungiki*---

**Mr. Deputy Speaker:** *Daktari*, you were given some three minutes!

**The Assistant Minister for East African Community** (Dr. Khalwale): Mr. Deputy Speaker, Sir, with those few remarks, I beg to oppose.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Ethuro!

**Mr. Deputy Speaker:** I am told that it is now Mr. Ethuro.

Madam Minister, you now have 12 minutes remaining.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Thank you, Mr. Deputy Speaker, Sir.

**The Assistant Minister for Planning and National Development** (Mr. Ethuro): Mr. Deputy Speaker, Sir, I really wish to thank the Minister for giving me, at least, an opportunity to contribute.

First, given that the crime rate in this country is increasing, and that the *Mungiki* are killing our people, what sense will we, as a House, have to be able to accept this kind of Motion. We want to send a strong message to the nation that the Ninth Parliament condemns any murderer, and any murderer must be murdered. That is the message that we need to send out from here!

Mr. Deputy Speaker, Sir, after listening to the few supporters of the Motion, what they are actually talking about is the failure of the due process and the administration of justice in this country. The problem is not the death sentence *per se*. We want any person to feel that if he or she can murder any Kenyan, that man or woman must surely die. I oppose this Motion.

Mr. Deputy Speaker, Sir, I am sorry because Mr. Ahenda, being new to this House, I would have been inclined to support any Motion that he brings. But on this one, I strongly oppose.

**Mr. Deputy Speaker:** I am told that Mr. Munyao has been given two minutes.

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Deputy Speaker, Sir, I will not even take the two minutes. I will take one minute!

I beg this House to oppose this Motion. If we pass this Motion, the country and the world will demand that all the Parliamentarians should go to psychiatrists to be checked what is in their brains! In that case, whoever supports this Motion, we resolve today in this Parliament that tomorrow, he or she be sent to Kenyatta National Hospital (KNH) to be checked what is in their minds!

Mr. Deputy Speaker, Sir, I oppose the Motion.

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I want to give the Government's position on this Motion---

**The Assistant Minister for Information and Communications** (Mr. Wamwere): Jambo la nidhamu, Bw. Naibu Spika. Nashangaa ya kwamba Bw. Naibu Spika ameruhusu matamshi yaliyotolewa na Waziri Munyao kumaanisha ya kwamba yeyote ambaye anachukua msimamo tofauti na wake, ni mtu ambaye ana kasoro za kiakili. Nadhani hayo ni maneno yanayohitaji kuondolewa.

**Mr. Deputy Speaker:** Absolutely! Mr. Wamwere is right! Mr. Munyao, you are wrong. You even asked the House to resolve. There is no such Motion on the Floor of the House.

Mr. Munyao, without wasting the Minister's time---

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Deputy Speaker, Sir, am I not entitled to what I think?

**Mr. Deputy Speaker:** Order, Mr. Munyao! Hon. Members have the option to oppose any Motion. For you to say that whoever opposes this Motion has something wrong in his or her head-- Will you withdraw that?

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Deputy Speaker, Sir, appreciating that hon. Members have got rights, and I also have got the right, I withdraw and hold that hon. Members need to---

**Mr. Deputy Speaker:** Order, Mr. Munyao! When you withdraw something, you have done so!

Proceed, Minister!

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I begin by saying that things that are of fundamental nature need to be referred to the people. We need to be sensitive about people's feelings. During the Bomas Conference, my Ministry presented a strong case for the abolition of the death penalty. But the delegates gathered there on behalf of Kenyans and rejected the proposal. This is an emotive matter. I think it would be wrong for Parliament to be insensitive to the mood out there. There are issues of security. The people of Kenya should be sensitised even though some of us believe that the death penalty should be abolished. Our first duty is to sensitise Kenyans and carry them with us. Otherwise, on whose behalf can we say this time that we will be passing this Motion?

Mr. Deputy Speaker, Sir, in many countries where the death penalty has been abolished, a referendum was held so that the people of those countries could accept the penalty. In the United States of America (USA), many states which had outlawed executions have now restored them. This is an issue where there is divided public opinion in many countries.

I want to clear the air, a death penalty is not illegal. It is not unconstitutional in Kenya. Section 71(1) of our Constitution allows for a person to be deprived of his life in the execution of a sentence of a court of law in respect of a criminal offence under the Laws of Kenya. We know that our Penal Code has several offences which result in the death penalty such as capital robbery, treason and allied offences.

Mr. Deputy Speaker, Sir, I want to take Parliament down memory lane. In 1972, when

capital robbery was introduced, the founding President went round the country campaigning on the issue before the Bill was introduced in this Parliament. It means that right at the beginning, this Parliament and the leadership of the country were conscious that there are certain things you cannot do without carrying the public with you. I would urge those who believe in the abolition of the death penalty--- Let us go out there, sensitise the public and let us come back for a Motion like this one. Otherwise it would be totally insensitive. It would be taking advantage of being placed here by passing something that we are fully aware that the public does not go along with.

Mr. Deputy Speaker, Sir, the Kenya National Commission on Human Rights (KNCHR), which is a Government agency, is currently creating awareness and facilitating stakeholder consultations on this very issue. Let us give time for Kenyans to dialogue on the issue and also on other issues of security and to see where, as Kenyans, we want to live. The Motion is coming at a time when there has been a spate of increased insecurity and heinous crimes committed against the people of Kenya. It would be the wrong time to do it.

Mr. Deputy Speaker, Sir, I also want to say that the Government does not respond to pressure from either lobby groups or outsiders, without considering what the public mood is. The Government must be sensitive to what the people of Kenya say. We can only find out that since we are embarking on a comprehensive review of the Constitution after the general elections. Kenyans will have ample time to dialogue on the matter and agree. I would beg my good friend, Mr. Ahenda, not to even bother letting us go to the vote. He should voluntarily withdraw this Motion so that, at an appropriate time, we can come back to the issue. We know where he is coming from. He is looking at the international human rights law regime. But even the international lobbyist that are spearheading this, have not managed to abolish it in some of their own countries. I have already said that there are so many states in USA that have now re-instated that law and they are still executing offenders. At least, in Kenya, we have had a moratorium. We need to come up with a definite policy of what we need to do after broad stakeholders consultations.

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

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(M'Mukindia) took the Chair]*

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Mr. Ahenda, it is your time to reply.

**Hon. Members:** *Funga hii kitu!* Withdraw!

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, I would like to donate two minutes of my time to my good friend, Mr. Ojaamong!

**The Temporary Deputy Speaker** (Mr. M'Mukindia): That is fine! You have ten minutes. So, you can donate a few minutes to your friends!

**Mr. Ojaamong:** Mr. Temporary Deputy Speaker, Sir, Mr. Ahenda is my friend, and a long-time political colleague, but I would also like to oppose this Motion!

*(Applause)*

I know in his mind, Mr. Ahenda had very innocent people who are being convicted by our courts and are innocently suffering. I have two cases to cite. One is the case of a politician from Mt. Elgon District by the name of Mr. Kapondi, a very innocent man who, because of, might be, political differences, the Government is trying to throw him and up and down, charging him with all manner of offences, so that he could be convicted to death.

I have another case in Busia District where councillors and chiefs are being put in and

charged with murder and other offences. I also have other cases where police officers in my constituency have framed up very innocent people, who have ended up in Kamiti and Naivasha prisons. Some of those people are very innocent. But because they have landed in the hands of the police, they are made to suffer for mistakes they have not committed. The same happened to Mr. Wamwere.

Mr. Temporary Deputy Speaker, Sir, in future, as the Minister has said, let us consider that very closely and save some of those people who might be forced to suffer for no apparent reason. In Teso District, for example, there are some clear cases where, if someone commits an offence, he or she is not taken to court. He or she is just murdered there and then. So, the issue of the death penalty is in our society. We used to keep cattle. To discourage the theft of cattle, we used to deal very ruthlessly with the thieves. We could tie a rope around the neck of the thief and he or she could be dragged by a cow even for 40 kilometres, so that he or she dies along the way. So, we upheld the death penalty in our society.

In the Teso Community, if you went to another man's house and interfered with his wife and you are caught there, the community was allowed to kill you there and then. The Government would not intervene. Therefore, for the hard-core criminals who are known to the society, let the death penalty be applied. But for the innocent, let us look for ways and means of rescuing them from corrupt courts, corrupt police officers and other corrupt Government agencies.

Mr. Temporary Deputy Speaker, Sir, I beg to oppose.

**Mr. Midiwo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank the Mover of the Motion for giving me two minutes to talk about it. This is not a small matter. It is an issue affecting Kenyans. In my view, as thugs keep conducting extra-judicial execution killings on Kenyans, they need to be killed in the same way. I think the Mover of the Motion has good intentions. However, I think this can be done in a better way, and elsewhere after people agree. The people of Kenya expect us to protect their constitutional right to live and live freely from thugs. That, you cannot do if you do not put a deterrent on thugs. The best deterrent is the death penalty.

With those few remarks, I beg to oppose.

*(Applause)*

**Hon. Members:** Please, Mr. Ahenda, withdraw the Motion!

**Mr. Ahenda:** Thank you, Mr. Temporary Deputy Speaker, Sir. You have seen the mood of the House. I am shocked by some of these hon. Members and, particularly, my good friend, Mr. Wetangula who led a choir here, to oppose the Motion. If Jesus were to come back, Mr. Wetangula would send him to Kamiti Maximum Prison straightaway. This is untenable and that is why Jesus has refused to come back. It is because such people are still living in this world.

*(Laughter)*

**The Assistant Minister for Information and Communications** (Mr. Wamwere): You are right!

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, it will take a very long time for---

**Mr. Syongo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. As a Christian, I take great exception to the suggestion that Jesus Christ was a murderer. He was not a murderer and, therefore, that is a very wrong example!

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard my good friend, Mr. Ahenda, say that I led a choir here to oppose his Motion. We do not conduct choirs here. I simply debated his Motion in the light of

the law as it is and the public mood in this country.

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, I was not trying to put across the fact that Jesus was a murderer. Jesus was murdered for an offence he did not commit!

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Order! Order! Obviously, I was here when hon. Wetangula was debating this Motion and I did not, at any time, see a choir. I have to agree with him that, indeed, you are not in order to say that he was conducting a choir here.

However, you may continue!

*(Laughter)*

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, that was metaphorical. Jesus Christ was hanged for an offence he did not commit. I am trying to put across the point that we should not hang anybody because life is not reversible. Once someone is killed or just dies, he or she will never come back to life to explain what happened. That is how Jesus Christ was killed. He has refused to come back because we are still living here and have this issue in our statutes.

Civilisation has to catch up with this country. Life is God-given and only the creator can take it away. I am in no way condoning that we should go out and kill. Those who kill are also wrong as much as those who hang other people at Kamiti Maximum Prison because life can only be taken away by God. Our courts are not set up for revenge purposes. The courts and judges should not promote the adage; "an eye for an eye." That is revenge and it is what we are trying to oppose. We should not revenge in the name of meting out justice.

Our jails are also for rehabilitation. How do you revenge for a dead person? We cannot rehabilitate a dead person.

**The Assistant Minister for Information and Communications** (Mr. Wamwere): Absolutely!

**Mr. Ahenda:** Mr. Temporary Deputy Speaker, Sir, once someone is dead, he can never be rehabilitated. Therefore, the essence of the courts being set up cannot achieve that aim.

Since 1985, as I told my good friend, Mr. Wetangula, no Kenyan has been hanged. That is true. Do you know why? This is because since the hangman retired from Kamiti Maximum Prison, the job has been advertised more than ten times now. The Government cannot get a good hangman to employ at the Kamiti Maximum Prison to be hanging people. So, there is no need of having this issue in our statute for a job that no one can take. We cannot, therefore, have it there for the sake of pleasing a few individuals who are opposing this Motion.

As Christians, we know - and of course those who subscribe to the Muslim faith - that there is no part in the Bible or even in the Koran which says that anybody who commits a certain offence should be hanged. Jesus said, in the Bible, that when someone slaps you on one cheek, please turn him the other. Jesus did not say that someone who slaps another person should be hanged. That is very unfortunate. A time has come when a chance has been given to the august House to do away, in our penal code, with the death penalty and it has refused to take it.

With those few remarks, I beg to move.

*(Question put and negatived)*

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Next Order!

INTRODUCTION OF EQUAL  
OPPORTUNITIES BILL

THAT, in view of the worrying trend of entrenchment of nepotism, favouritism and lack of a fair, transparent and balanced recruitment to all cadres of Public Service and bearing in mind that legal remedies for ensuring this balance are limited; this House grants leave for the introduction of a Bill entitled The Equal Opportunities Bill, 2007 to provide for fair, transparent and balanced recruitment, devoid of nepotism, favouritism or unfair ethnic considerations, to public sector and for matters incidental thereto and connected therewith.

**The Temporary Deputy Speaker** (Mr. M'Mukindia): The next Order is on a Motion by hon. Arungah. Mr. Arungah is not in the Chamber. I understand that this is the second time that this Motion has been called and he has not appeared. For that reason, this Motion has been dropped from the Order Paper and we move on to the next Order.

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

THAT, aware of the high drop-out rate in our public secondary schools arising out of the inability of parents to pay school fees, further aware that the Government has instituted various measures and reforms to address the challenges related to access, quality and equity of education; this House urges the Government to establish a fund to be known as the Education Levy Fund to provide for school fees for students from poor and disadvantaged backgrounds.

Mr. Temporary Deputy Speaker, Sir, this Motion is coming at a time when most parents cannot afford to take their children to private schools. They cannot also meet the demands of various public schools. As a result, it is only the children from advantaged families who access good and quality education.

Mr. Temporary Deputy Speaker, Sir, in urban centres, we find that most pupils in private academy schools access very good facilities. However, in the rural areas, most schools do not have enough facilities. This is not a fault of their own. It is a pity that parents in those regions are not able to equip those schools. So, students in those schools cannot access quality education. They cannot be equal to those who are in urban schools or in private academy schools. It is only pupils from those private schools who perform very well in Kenya Certificate of Primary Education (KCPE). When they join Form One, we find that their shopping list surpasses the first term fees. This is because their parents are endowed with a lot of money. This, therefore, will lock out majority of the rural students who will not even have had good educational backgrounds. This fund will make it possible for those students who cannot afford quality education to access secondary school education.

Mr. Temporary Deputy Speaker, Sir, what is even worse is when they are admitted to secondary schools, they cannot afford the fees. We all know the recommended fees by the Ministry for day school is Kshs8,500, for provincial schools is Kshs22,000 and for national schools is Kshs25,000. This is not what we get on the ground. Some of the national schools in this country charge as high as even Kshs60,000. Some provincial schools may charge between Kshs30,000 and Kshs40,000. There is a very high disparity in terms of those who can afford and those who cannot. So, in essence, those who would have afforded to take their children to academies are the same people who will also afford to take them to those secondary schools. So, the same students will end up doing well in the Kenya Certificate of Secondary Examinations (KCSE). Most of them will go to university. In the university, they will pursue what we call superior courses like engineering, medicine and so forth. Those students who will not have made it to the university level, will end up being condemned and yet, they are our children.

This Motion seeks to establish a fund that will be able to cater for those bright students from disadvantaged backgrounds. Those students who, otherwise, would not afford to even join

primary and secondary schools or even the university. This Motion is, therefore, seeking to address the inequality in our society. It is not only seeking equality in education, but also in life. We know that those who will go to universities will end up getting employment opportunities, whereas those who will not make it, will be condemned to suffering and they might not access employment opportunities. This will make those who will afford high quality and quantity education to continue leading a better life. We will end up with a society made up of "haves" and "have-nots".

Mr. Temporary Deputy Speaker, Sir, I ask hon. Members to support this Motion, so that the Government sets up the Education Levy Fund. This levy will be able to cater for those students even if they do not get bursaries from the Ministry of Education. The Government provides only Kshs800 million as bursary. This money is not enough to cater for those who cannot afford school fees. I am aware that from next year, the tuition fees will be waived. That is just a waiver of Ksh3,600 per student. Let me also address the Kshs3,600. Out of school fees of Kshs25,000, Kshs3,600 is just a drop in the ocean. That will not even assist children from poor families. We need to address this issue and see to it that those who come from those disadvantaged areas, at least, are brought to the same level with those who can afford.

Mr. Temporary Deputy Speaker, Sir, in this case, we are trying to compare ourselves with other countries in Africa and elsewhere, particularly South East Asia. In those countries, education is given prominence in terms of industrial or economic development. Without sound educational background, our country will not be able to continue with economic development. A sound educational background is important to both those who can afford it and those who cannot afford it. We need to assist them. The only way they can be assisted is by subsidising school fees in form of bursaries. These bursaries can only come from a kitty in the name of the Education Levy Fund. That is what the Motion is seeking to address.

Mr. Temporary Deputy Speaker, Sir, we have other levies which have been instituted in this country. This will not be the first one. We have levies on roads. We use this Levy to repair our roads. We have the Hotels and Catering Levy and other levies which augment economic activities in our country. The Education Levy Fund will supplement the bursary of Kshs800 million which is not enough. This is the mood of the Motion.

Mr. Temporary Deputy Speaker, Sir, I am asking hon. Members here to understand that if we do not address this issue of inequality and accessibility to education, we will condemn very many students in schools. We might even condemn more than three-quarters of students in the rural areas.

Mr. Temporary Deputy Speaker, Sir, the Free Primary Education Programme (FPEP) was introduced in this country in 2003. It led to an increase of more than 2 million children in our primary schools. That shows that we will have 9 million primary school pupils who will be completing Standard Eight. May be, it is only one million of them who will complete secondary education. This will be a very low rate. It is less than 40 per cent. That tells you that there is need to have more children enrolling in our primary schools, so that many of them access secondary education. It is a pity that when we have Form One selection, half of the candidates miss places in Form One. They miss Form One places because, first they have no money, secondly even the facilities are not there to cater for the increasing number of students. Thirdly, some of the schools do not have such facilities. If this Fund is created, it is going to provide those facilities in our needy rural secondary schools and also boost the primary schools so that those in primary schools can continue with secondary school education and use the facilities which are adequate.

Mr. Temporary Deputy Speaker, Sir, we have very many compulsory subjects which have been introduced by the Kenya National Examinations Council (KNEC). Some of those compulsory subjects are those that even an ordinary rural school set-up cannot afford. In the Kenya Certificate of Secondary Education (KCSE) one has to pass in two subjects; that is English and Mathematics.

These are compulsory subjects. Then you have to pass a minimum of two science subjects. That is, Chemistry, Physics and Biology. Those are now four. A student has also to pass Mathematics and one or two humanities. That means that if a school is not properly endowed with the science equipment, it would be very hard for that rural school to contribute positively in the country, in terms of who joins the university. That is the reason why if we had this Fund, we would have more students enrolled in secondary schools pursuing these courses and the same students will continue taking sciences even at the university level. They cannot even afford to take the science subjects or computer studies because they did not study those subjects in secondary because of lack of facilities. The lack of facilities is because they have no funds. The parents cannot afford. There is nobody else to supplement the bursary. Therefore, the student is condemned to live in poverty throughout his or her life.

Mr. Temporary Deputy Speaker, Sir, if there was a fund introduced by the Government so that it can be used to pay fees for those students who cannot afford to go to secondary schools, I am sure that those students will lead a better educational life and they will continue to the university. In the end, they will be useful citizens in the society.

We are not talking out of ignorance. There are people who have attempted to do this and have paid money in form of scholarships. I am aware that we have the Jomo Kenyatta Foundation which awards scholarships, although they are very few. We have foundations like the Rattansi Foundation. Others are personal like the Kalonzo Musyoka Educational Fund and other funds which have been established. These funds aim at paying fees for those who cannot afford.

Mr. Temporary Deputy Speaker, Sir, the other Fund is from Members of Parliament. Most of the time Members of Parliament go around raising fees for those students who cannot afford secondary school education, in the university or overseas. Since education is a human right, we need to make sure that our children are educated. That is the only way we can talk about an educated society. We are, therefore, missing the point by not educating that person who requires that education. We are, therefore, asking the Ministry of Education to consider embracing more other foundations which are available, so that we can add to the Kshs800 million bursary kitty, so that it can be beefed up to Kshs2 billion.

We have seen several funds being started, for example, the Women Enterprise Fund and the Youth Enterprise Fund which were allocated billions of shillings. But in the education sector, you just find a paltry Kshs800 million. So, if we could create a fund and we put more money into it, I am sure we are going to have our children get access to quality education in our rural areas. That way, we are going to promote national good and good citizenry. Those students are going to love this country because if you condemn somebody not to continue with education, then you are condemning him for life.

Mr. Temporary Deputy Speaker, Sir, my Committee has gone around the country assessing the quality of education which has been prompted by the increased number of students arising from the free primary education. What we get in the rural areas is disappointing. In some schools, one teacher is teaching close to 200 pupils in Standard One. Standards Two and Three, in some areas, have been combined in order to be taught by one teacher. To me this is something which would not be there if we had proper planning and enough money. Since money is the problem, we are always talking about the growth of the economy to 6.1 per cent and the increased earnings from tourism, which is the leading foreign exchange earner.

There is also a lot of money generated by various private sector investors. Why can we not approach them and ask the Government to create that fund where everybody will put some money, even if it is a Shilling? Then that fund will go towards the right direction. That is, to pay fees for those who cannot afford to pay. Recently, we endorsed a form compelling heads of schools to release certificates which they had retained. That is because the fees arrears owed by parents and



others who cannot afford school fees was totalling Kshs15 billion. That is not the fault of the heads of schools. It is as a result of the inability of the student to pay the fees. If the heads of schools could be given that money earlier, so that the students are given their certificates, we would be having them employed by now.

Mr. Temporary Deputy Speaker, Sir, it is a pity to find that nowadays nobody can be interviewed without a certificate. It is the fault of the system that we have. So, if the system can allow the creation of this fund, I am sure this money will go to the payment of fees in form of bursaries in the areas where students cannot afford. I am sure that we are going to create intelligent students and citizens of this country. These are the same students we are going to use to advance the economic development of this country. So, if we are going to talk about industrialization of this country, we should first talk about the improvement of education standards in our country. Unless our education standards are improved, we should not think about anything industrial or developmental. We are only going to blame one another and in the end, we will not make any headway.

Mr. Temporary Deputy Speaker, Sir, my Committee also visited the South East Asian countries. What we learnt from Malaysia is that, most of those people who make a certain level of profits have to subscribe some money to a fund called Education Levy. That Education Levy is treated like a bursary so that those students who pass and cannot afford to pay fees, are encouraged to continue. In the end, they are even sponsored by private companies and people who are rich. Since many of them have demonstrated that they can support education, why can we not then start off this fund? I am sure that once this fund is instituted, it is going to be a waiver to very many students who could not have afforded to join Form One and university for the parallel degree programme and the overseas universities. Majority of the students who cannot afford to do that resort to doing other things. Those are the ones that we treat as criminals and it is not their fault. It is because they could not afford to pay for their education.

I am, therefore, appealing to the entire House to understand that unless that happens, we are not likely to transcript into good education background of our country. Therefore, we will not be talking about high standards of education in our country. We cannot even talk about computer literate persons, engineers, doctors and teachers. Those other people will only be drawn from a background which is rich in terms of educational backgrounds.

For that reason, therefore, I call upon hon. Members to support this Motion because when it is supported and the Government sees the need of having this fund, we are going to increase the fund from Kshs800 million, which is set aside for bursary to, may be, something like Kshs2 billion to Kshs3 billion. Of course, this money will be seen to be going to really help those students who cannot afford. We have very many orphans who, of course, are as a result of various problems like HIV/AIDS, accidents and so forth. These orphans are the ones who are taking all the bursary money. But even after the bursary money is paid to a maximum of Kshs10,000, what happens to that student who is in a national school? Who will pay the balance of the money after the bursary has already met what is statutory? The statutory amount for bursary is only Kshs15,000 in the national school, Kshs10,000 to a boarder in a provincial school and Kshs5,000 to that day scholar. So, those students who are very bright, of course, will move to the national and provincial schools. But after paying the Kshs15,000 in national schools and Kshs10,000 in provincial schools, who pays the rest for an orphan? This fund, once created, will cater for the balance, after the Government has given out the bursary. That is all we are asking for.

The waiver which will be there next year for tuition fees is Kshs3,000, but there are many other vote heads, for example, Boarding, Equipment and Stores (BES) fees which somebody has to take care of. There is also the ACF, LPT, Personal emoluments which caters for the employment of clerks and other kitchen hands, LMF and so forth, and so on.

With those few remarks, I beg to move and call upon hon. Bahari to second this Motion.

**Mr. Bahari:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank hon. Karaba for bringing this Motion and giving me an opportunity to second it.

Mr. Temporary Deputy Speaker, Sir, I support the spirit of this Motion because it is true that there is quite a sizeable population of Kenyans who do not have access to quality education. The whole Motion is worded with the issue of access, quality, equity; these are the things that this Motion intends to address.

I would like to start, perhaps, by saying that education is a must for everybody. That is the spirit in which we operate in this country. We have emphasised this, time and again, and, therefore, it is incumbent upon the Government to ensure that everybody has access to quality education because we are encouraging people to go for it and, therefore, this must be made available. It is only, perhaps, the Government which can intervene and ensure that this is available.

Mr. Temporary Deputy Speaker, Sir, I want to start with the issue of access in very many areas, particularly in Arid and Semi-Arid Lands (ASALS). Because of the vastness of the land, background of the communities there in terms of the economies, which is pastoral in nature, there tend to be movements depending on the rainfall pattern. This tends to move kids out of schools and at the end of the day, make them quit schooling completely and, therefore, they end up not getting the necessary formal education that is required. Therefore, this is a very, very serious issue and it is only the Government which must find a curriculum, ways and means of ensuring that these people get access to education. The Government should not only ensure that they get education, but quality education.

In a number of the few scattered schools that have been built in the ASALS, the problem of quality has continued to persist.

Mr. Temporary Deputy Speaker, Sir, time and again, the number of teachers in schools has continued to decline, and there is very little that has been done over a period of time. So, you find that the few students who have managed to get access to education just play around in schools, because there are no teachers. In fact, half of the classrooms of some schools in my own constituency are not manned due to lack of teachers. So, even those children who happen to be within school compounds still do not have access to education. Sadly, that is happening after we talked to them and convinced them to join school. I heard on radio this morning that in one of the new Pokot districts kids are now, forcefully, being taken to school, but I wonder whether those districts have enough teachers. They may just be playing around in those areas.

Mr. Temporary Deputy Speaker, Sir, having said that, even at the level of the Teachers Service Commission (TSC), in terms of determining the shortage of teachers, they apply the same formula in both arid and semi-arid areas. So, when the issue of student to teacher ratio comes into play, you find that the numbers which are considered appropriate for those areas are not necessarily achieved, because of the formula that the TSC has been using to determine teacher shortages in ASAL areas. So, this formula needs to be looked into.

Mr. Temporary Deputy Speaker, Sir, for those who are in secondary schools, certainly, it has been very expensive. In the ASAL areas, in particular, we have just come out of one of the most devastating droughts, which has not been experienced, perhaps, over the last 40 years. The backbone of the economy is destroyed. The communities there are permanently on relief food. Certainly, therefore, it is illogical for anybody to come up and say: "Can you now start paying fees?", when those people are being supplied with a basic necessity in the name of food. It is, therefore, incumbent upon the Government to move---

In fact, it should not be a question of creating the proposed Education Levy Fund. The Motion should be amended to provide for free education, particularly in secondary schools. I think that is the direction Kenyans are taking now. So, it is important that this Motion is amended along

those lines. I had not prepared myself to amend it at this particular point in time, but that is the direction we are headed. I said that, with a bit of fine-tuning in the management of secondary schools, free education can easily be achieved hands down.

Mr. Temporary Deputy Speaker, Sir, if, particularly, the issue of audit in secondary schools is tightened, I am sure that we can reduce what is now considered to be the cost of a child in secondary school by even up to 30 per cent. Once that is done, we can afford to offer free secondary school education for our children. The problem in this country is that we tend to think within conventional confines and stop there. We have no room for incisive thinking to make sure that we do things very differently.

So, the thinking, which is what we should be telling the Ministry, is that we need to get them to sit down and ensure that there is free secondary education, or affordable secondary education, but the general feeling is for free secondary education. If we do not do so, as a country, we will not be doing our job. What has been happening will, certainly, exacerbate the already worsening situation of inequalities within this country, which in 1975 had 10 millionaires and 10 million beggars. Now, it has 30 millionaires and 35 million beggars.

Mr. Temporary Deputy Speaker, Sir, therefore, the most fundamental thing to offer to our children is education. When the majority of Kenyans do not have access to education, certainly, the gap between the rich and the poor will widen permanently. It is only the instruments of Government that can come in and change that scenario.

Mr. Temporary Deputy Sir, because of dropouts and lack of access to education, we still keep on talking about adult education. We try to address the symptoms by way of adults who have not gone to school. We teach them and spend some money rather than addressing the root cause of the problem. That is to have free primary education and free secondary education. If we can afford it, there is nothing that can stop us from making university education free. That is what this country needs. This country cannot afford that. But if you can afford, then it is okay. But if you cannot afford, it is our priority. That is why we tend to spend a lot of money in the Ministry of Education as opposed to other areas. So, Government intervention is a must in this instant. Therefore, we have no option other than going that direction.

Mr. Temporary Deputy Speaker, Sir, we must have seen that in a number of secondary schools, there are certificates that are being withheld due to students' inability to pay fees. There is a more serious problem than the certificates being held there. That is because even the quality or the grade of that certificate is very low. Most of those students are out of the schools most of the time, trying to look for school fees. We have, time and again, made pronouncement which have not been implemented. We keep on saying that the students should not be sent away. Parents should make arrangements with the schools. But that is not workable because the schools also need money to feed those students. So, most of those students are just in school by name. Most of the time, they are out there at home looking for fees. Therefore, they have less time to learn. After the four years, what happens? At the end of the day, we have students with very low grades like D and D+. Already, the parents would have exhausted the little resources that they have. Those children go back home and stays there because with grade D, there is, perhaps, very little that you can do. The polytechnics are gone and there is nothing really that provides for that.

With those few remarks, I beg to second this Motion.

*(Question proposed)*

**The Assistant Minister for Transport** (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion that has been introduced by my friend and neighbour, Mr. Karaba. I think everybody can agree that this is a

very important Motion in the sense that we have many dropouts. We have pupils dropping out from Standard VIII. Instead of joining form one, they just stop at Standard VIII.

Mr. Temporary Deputy Speaker, Sir, in this House, we talk about the protection of the girl-child. In my constituency, the problem is completely different. Our problem is not the girl-child. That is because we have more girls than boys in primary and secondary schools in my constituency. Our problem is the boy-child. Our boys are leaving school at Standard VI. Most of them leave school as soon as they are circumcised. They say that they are now adults and want to get married. So, we have a major problem. We have tried to address that issue. We have talked to the churches to sensitize their congregations that parents should not circumcise their boys when they are in primary schools. They can circumcise them during the holidays in December after they have sat for their Standard VIII examinations.

Mr. Temporary Deputy Speaker, Sir, whereas we commend the Government for the its efforts, the future of this country, as far as education is concerned, lies in day schools. We must start more day schools. For example, in my constituency, through the Constituencies Development Fund (CDF) money, we have put up a secondary school in every primary school. These are day schools and they charge a maximum of Kshs8,000 a year. If you divide Kshs8,000 by 12 months, you will realise that the students pay about Kshs800 a month. Even the lowest paid person in my constituency earns about Kshs3,000 a month. These are mostly the casual labourers who are paid Kshs100 a day. That means that with day schools, it is possible for each and every person who wants to educate their children to do so.

Mr. Temporary Deputy Speaker, Sir, we have also observed a trend whereby secondary schools are now imposing what they call lunch fees. The result of this is just to increase the fees. So, in my view, the future of education in Kenya is day schools. Boarding schools are very expensive because the items required to maintain children there are very expensive. You will find that whereas the Government pays something for the tuition fees, the total amount of fees in a secondary school is Kshs25,000. They are now adding what they call "boarding fees", "lunch fees", "dormitory fees", "bus fees" and so on. If you add all that, it comes to almost Kshs50,000 a year. Kenyans cannot afford this amount of money. So, we need to go the day school route. That is the route.

Mr. Temporary Deputy Speaker, Sir, I do not even know how the concept of boarding schools came about in this country. If you go to the USA and the UK, students go to primary schools as day scholars. They leave home in the morning and by 3.00 p.m., they are back home. This gives parents an opportunity to learn about their children, stay with them and even to observe them. Parents will be able to know whether their sons and daughters have started using drugs or taking alcohol. When the children are in boarding schools, this is not possible. Parents get a rude shock when their sons and daughters are sent away from school after they are caught with drugs or alcohol. You can really see the shock on the parents' faces, which means that they do not know their children well.

Whereas this Education Levy Fund amounts to an increase in taxation, other ways of funding education must be found. At the moment, we have a shortage of more than 60,000 teachers both in primary schools and tertiary educational institutions. This year, the Government will be employing only 11,000 teachers. This is a drop in the ocean. However, as the interviews are being conducted, I have seen a very dangerous system that is being used. If you do not come from that particular district, you cannot be employed! A Kenyan is a Kenyan, and he or she should be able to get employment in any part of the country.

Mr. Temporary Deputy Speaker, Sir, if you say that one can only be employed in the district he or she comes from, what about the people in my constituency who teach there and yet, they do not come from there? Should we then chase them away, or what will happen? I think the

system needs to be changed. We should go by the system of using the year of graduation. Those who graduated earlier, should be the first ones to be employed. Those who are graduating now, can wait for their turn. However, insisting that only teachers who come from a district should be employed in that district, is dangerous. It also encourages tribalism.

Mr. Temporary Deputy Speaker, Sir, the other issue that has come out from this Motion is the retention of certificates by head teachers of secondary schools. In my constituency, over 20,000 certificates are being held by various secondary schools. Even if we establish the Education Levy Fund, unless we deal with the problem of retention of certificates, it will not help much. Without the certificates, the students cannot get jobs. Without jobs, they cannot pay the school fees balances. Therefore, we need to do something about the retention of certificates by schools. We should, probably, say that three or four years, after graduation, if a student has not collected a certificate, it should be released to him free of charge. If one can wait for more than three years before he or she gets his or her certificate, it really means they are unable to pay.

Mr. Temporary Deputy Speaker, Sir, concerning the quality of education, school inspectors need to be funded. Whenever they ask for meetings, they approach us as hon. Members of Parliament to sponsor them. Now, you wonder how you would sponsor meetings of school inspectors and quality assurance officers. I think one way in which the Education Levy Fund can be used is to fund the meetings and seminars that are normally held for head teachers and heads of departments.

Mr. Temporary Deputy Speaker, Sir, we have the issue of school buses. School buses are very popular among the students. There seems to be a competition among schools to buy the most expensive bus and with the largest capacity. These only burdens parents even more. One way in which this Education Levy Fund can be used is to purchase buses for all secondary schools, so that parents are not burdened.

Mr. Temporary Deputy Speaker, Sir, we also need to find a way of equipping laboratories. We have used the Constituencies Development Fund (CDF) to put up many laboratories, but equipping them is taking a bit of time. We need to give pupils equal chances, so that they can compete with students in schools like Alliance High School and Mangu High School.

With those few remarks, I beg to support.

**Mr. Kones:** Mr. Temporary Deputy Speaker, Sir, I wish to support this very important Motion. But I have a few problems with the proposed Education Levy Fund and the terms "poor and disadvantaged backgrounds."

I think education in this country cannot be overemphasized, in the sense that it has not been given very serious thought in terms of liberalising its standards. You will find that certain institutions provide very good secondary school education, while some provide almost nothing. I quite agree with my colleague who has just talked about the day schools. I think Kenyans should go the day-schools route. But you will find that most of the day schools in this country are actually, almost, running empty in terms of the number of students. Students are not there because of a shortage of teachers in those schools. I think the Government has to decide whether it wants to run day schools as public institutions or otherwise. For example, you will be lucky to find two or three teachers posted by Teachers Service Commission (TSC) in a day school with two streams from Form One to Form Four. This discourages students from going to those schools.

If these schools were properly equipped with laboratories and staffed with teachers, we would reduce the cost of education in our country. But you will find that there is a lot of emphasis given to the old schools and boarding schools, which most parents cannot afford. I think we must make a decision in this country and say that unless it is absolutely necessary, we actually do not require boarding schools. What is the point of taking a child to a boarding school when his or her home is only about one kilometre away from school? That child is not even allowed to go back

home when the school is in session. It used to make sense to take children to boarding schools because those schools were very far from the villages they came from. But it does not make sense nowadays given that, almost, every primary school is next to a secondary school. The Government should come out and say that it supports free secondary education. Then, the parents will bear the burden of having to cook and house the children in the evenings. They will also provide education facilities to those children in the evening.

Mr. Temporary Deputy Speaker, Sir, I do not know of any parent who has comfortably said that he or she affords secondary school education for his or her children. This is because at any one given time, a parent could be having four or five children in secondary schools. If every child is charged Kshs25,000 per year, for example, if you multiply that by five, it amounts to over Kshs100,000 per year. There are hardly any parents in this country, today, who are earning that kind of money. So, almost, every family has a burden. That is the reason you will find that most schools are holding the certificates of school leavers. They are not doing it for fun, but because the school fees have not been paid. If we are talking of about 20,000 students who have not gotten their secondary school certificates in a constituency, it is, almost, the same as saying that every child who has gone through secondary school education has not been able to meet the school fees. Therefore, there is a problem. We must address this issue as a national problem.

So, the issue is not whether the students come from poor and disadvantaged families or not. I think almost every family, today, cannot comfortably afford secondary school education and, therefore, it is a burden. Just as primary school education was a burden, so is secondary school education. But we seem to be shying away from urging the Government to provide free secondary school education. We would then ask ourselves: How do we afford it? We would move on and abolish all the unnecessary boarding secondary schools and make them day schools. Students would go back home in the evenings. We would then provide those day schools with quality education. We would give them laboratories and staff them with good teachers.

It does not make a lot of sense to spend so much money to build boarding schools when, in fact, we could spend that same amount of money to build teachers' quarters. The other reason most day schools do not have enough teachers is because they cannot be housed in those schools. No teacher would want to teach in a school where he cannot be housed.

Mr. Temporary Deputy Speaker, Sir, I think we are having our priorities totally upside down. If we could have adequate teachers' facilities, then teachers would go to teach in the rural areas. That is not asking too much. The Government should go out there and instead of talking about the Education Levy Fund, provide free secondary education to all the children.

These days, children finish Standard Eight when they are so young that they cannot do anything worthwhile. They cannot do anything with their lives. They cannot effectively and sensibly engage in business. They cannot even sensibly engage in marriage, like my friend was talking about. Standard Eight children are so young that I cannot imagine them even getting married. Even if they get married, they cannot competently look after their families. We should make it compulsory for children to be in school until they are over 18 years old. It should be a policy of the Government to keep children in school up to Form Four. Secondary school education should be affordable. Every primary school should extend and have another four classrooms from Form One to Form Four. This is not asking too much. If this was done, we would be looking at the society in a better way.

Mr. Temporary Deputy Speaker, Sir, currently, we are doing this in piece meal and this is not going to help us. If we want to provide free secondary education in this country, we should give it priority and make it affordable. Every primary school should have a day secondary school, and every day secondary school should be equipped properly. The schools should have enough teachers and laboratory equipment. The teachers should be housed in the schools, so that they do not run

away from the schools because of lack of accommodation.

Mr. Temporary Deputy Speaker, Sir, I support this Motion. However, the Mover of the Motion should probably make some amendments, so that it becomes easy for the House to pass the Motion and the Government can see that there are good intentions in this Motion.

With those few remarks, I beg to support.

**Prof. Maathai:** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion by Mr. Karaba.

I want to congratulate Mr. Karaba for moving this Motion. This is a Motion that most of us are very concerned about. Many of the issues that we are talking about came up when we were even contributing towards the Vote of the Ministry for Education. These are issues that have been mentioned many times in the course of this Parliament.

We have emphasised in the past that the most important thing that any Government would want to do is to invest in education. The amount of money that we spend on our education is what will make a difference both for the present and the future. If we do not invest in education, in many ways, much else that we invest in will not make sense. This is because it is very important that you have an educated citizenry; people who can read, write, understand the policy of their Government and, therefore, can support their Government. People who can read instructions to guide themselves in whatever they are doing.

Mr. Temporary Deputy Speaker, Sir, you cannot develop if you largely have an illiterate citizenry. As I have said before, this is the difference that came between us in Africa and South East Asia. The South East Asian countries, which we quote often in our debate, are countries that were also colonised by the same European powers. So, they went through the same kind of exploitation, humiliation and misdirection as we did.

Somehow, the South East Asian countries have been able to move forward. Some of them have become major economic powers. The difference has been that they identified education as a priority. One example of these countries is India. India invested in education heavily. Today, India has been able to propel itself to the realm of becoming almost a superpower, altogether having a large population that is now middle class and is literally moving their economy. This is a country that has even ventured into nuclear power and sent satellites to outer space. Today, India is one of the countries that is providing employment to many developed countries including America because they have so many skills. This is being done as those countries take advantage of the technology that has made it possible for people to work for America while they are still in India. That would not have happened if India had not invested heavily in education, especially in science and technology.

Mr. Temporary Deputy Speaker, Sir, today sourced employment is a big election issue in America. They are saying that many of their people are not getting jobs because they are going to India and other Asian countries that are sourcing services by using science and technology. As Africans, we have really missed the boat. It is very very important that we wake up and provide our children with education. As other hon. Members have said, this Motion should be taken very seriously. It should ensure that we give our children free secondary education. We have managed to implement free primary education; we should do the same for secondary education.

If we cannot give secondary school students free education, we can give them loans so that when they go to work, we will recover this money from them just as we are doing with university graduands. Instead of holding their certificates when they finish high school, we allow them to look for jobs and they start refunding this money the minute they find a job or become self-employed. This will ensure that this money is recycled. When we do not invest in education we are being very short-sighted.

This country has money. Right now we are discussing how we can improve our

emoluments here in Parliament. We are already very highly paid. Recently the salaries of some of our civil servants were raised to very high levels. If we can do that, surely we can invest in education. We are sacrificing our children. When we have children who do not enter secondary school, those who do not complete secondary schools or do not get their certificates and cannot be employed, it is no wonder that we have insecurity in this country. We are told that Kenya is one of the most unequal countries in the world. Whenever you have a country where there is so much inequality so that you have few people who are extremely rich and a large number who are extremely poor, that country can never have security.

It is not surprising that we as the elite and the rulers of this country have resulted to killing our own children because they have become a source of insecurity for us. We must invest in education. If those children had been given education, been able to acquire skills so that they could be engaged in gainful employment they would not be engaging in such self-destructive such as drug abuse, alcohol abuse and getting into organised crime.

People who have been dealing with this crime such as the United States of America, Brazil will tell you that this is partly due to the inbuilt inequalities in their societies that allow certain sections of their societies not to be educated or receive adequate skills to become responsible and contributing members of the society.

Mr. Deputy Speaker, Sir, this Motion is extremely important and I know we can do what it is advocating for.

Mr. Temporary Deputy Speaker, Sir, the Constituencies Development Fund (CDF), as it is at the moment, is--- At least, in my own constituency, I know that if I did everything my constituents ask me of, I could spend 100 per cent of my CDF on improving the infrastructure in schools and paying school fees but I am not able to. First of all, we have the rule of 50 per cent. So many schools are dilapidated and you sometimes find children learning in very deplorable situations. As I mentioned another time here, one of the things that have horrified me is the status of the infrastructure, especially simple things like latrines. You just find that children do not have adequate latrines, and when you ask people to build them, they tell you that the CDF should do it. It really shows that we have given very little attention, as the Government, parents and teachers, to the welfare of children in our schools.

I want to agree with Mr. Githae here that, in fact, it is possible to cut down the amounts of money parents are being asked to pay if teachers do not put unnecessary costs to education. Maybe, the answer is to have more day schools, but, certainly, teachers should be encouraged to reduce the amount of unnecessary burdens that they put on parents.

Mr. Temporary Deputy Speaker, Sir, because of HIV/AIDS, and partly also because of poverty which, despite the growth in our economy, is not being felt in the rural areas that much, we still have many children who are orphans because of HIV/AIDS. In my constituency, when I give scholarships to orphans who are recommended by the community, I have no more money to give to students who are not orphans, but are extremely needy. So, I find that no matter what we do, until our economy improves to higher levels, it is virtually impossible to give our children education. The Government has to provide free secondary education.

With those few remarks, I beg to support.

**Eng. Okundi:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this very important Motion.

As we stand here today, if you go to many secondary schools in this country, at least half of them in the whole country are suffering from non-payment of school fees. It is so bad that in some areas some schools are completely devastated. The result is that the performance collapses, and so we find that we, as parents, have our children going to these schools and there is no hope, because they are not going to do well. The school fees situation reflects the poverty situation in this



country. I think that the Government must listen to this, and must find ways and means of dealing with this thing with regard to our children.

I am a bit disappointed that this very important Motion is being discussed when there is nobody here from the Ministry of Education. This is a very important Motion. It affects the future of this country, the future of our children and it affects us as we are today. When this Government announced free primary education, the enrolment went up almost double. People were so enthusiastic that even those at very advanced age went to school. In fact, the best thing a nation can give its people is education. When Tony Blair was Prime Minister of the United Kingdom (UK), he was asked what his priorities are. He said: "The first, second and third priorities are education." He said that early this year. If a very advanced nation can give that kind of priority to education, what about us?

Mr. Temporary Deputy Speaker, Sir, I agree with my colleagues who have said that we need to amend the Motion and face the issue of free secondary education. Let us face it. If we look at the wastage of our natural resources, money, taxes and so on, it is done through corruption, mismanagement, poor spending or badly planned projects and programmes. If the nation was disciplined, with proper spending and putting money in areas which deserve attention like education, we can easily afford free secondary education. I am sure about that. Countries that have realised that step--- I thank Prof. Maathai for saying that East Asian countries made that step because they put education as their number one priority in their political and planning drives. They have educated their people and made sure that they know what they ought to do in order to live and drive their economies to success.

Mr. Temporary Deputy Speaker, Sir, this Government introduced bursaries to secondary schools. The budget for that is about Kshs800 million per year. That is extremely inadequate. It helps a little, but it has generated a great deal of demand for more bursaries to be given, to help the school fees situation. People are so poor that the first thing they talk about is their children in schools. They mostly ask for money for school fees, clothing, transportation and food. That is an area that

this Parliament ought to enact a proper Bill and push for action to be taken. If the money allocated for bursaries would have been increased before we lined up for free primary education, very substantial steps would have been taken into account, which would have provided attention to education. I would suggest that the budget be increased substantially to boost the bursaries, and clear certain fee arrears for the time being, while we are introducing the process for free secondary education.

Mr. Temporary Deputy Speaker, Sir, at the moment, the amount of fees arrears is very huge. Let the Government, as has been requested before, write off the current fees areas, so that the schools that are faced with that problem can start operating again. We are writing off a number of things such as loans through SACCOs, coffee farmers and so on. Let us start steps to write off those arrears. That would go a long way towards the process of proper attention to education for our people.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. M'Mukindia): Order! Eng. Okundi, you will have four minutes to finalise your contribution when debate on this Motion resumes on Wednesday, next week.

Hon. Members, it is time to interrupt the business of the House. This House, therefore, stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.