

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd November, 2006

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Report of the Controller and Auditor-General together with the Appropriation Accounts, other Public Accounts and Accounts of the funds for the year 2004/2005, and Appendices Volumes I, II and III.

Kenya National Assurance Company (2001) Limited Accounts for the year ended 31st December, 2005, and the certificate thereon by the Controller and Auditor-General.

(By the Minister for Finance)

Annual Report and Accounts of the Kenya Agricultural Research Institute for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

*(By the Minister for Finance, on behalf
of the Minister for Agriculture)*

Annual Report and Accounts of Thika Municipal Council for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Embu County Council for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Nanyuki Municipal Council for the year ended

30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Chogoria County Council for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Kajiado County Council for the year ended 30th June, 2005, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Kajiado Town Council for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

Annual Report and Accounts of Mwingi Town Council for the year ended 30th June, 2004, and the certificate thereon by the Controller and Auditor-General.

*(By the Minister for Finance, on behalf
of the Minister for Local Government)*

QUESTIONS BY PRIVATE NOTICE

POLICE LINES FOR LUANDA POLICE OFFICERS

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

(a) Is the Minister aware that Luanda Police Station and its satellite police posts in Emuhaya Constituency have no police lines?

(b) Is he further aware that the many police officers at the aforesaid stations have to operate from lodgings?

(c) What immediate action will the Minister take to remedy the situation?

The Assistant Minister for Administration and National Security (Mr. Kingi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Luanda Police Station and its satellite police posts in Emuhaya Constituency have no police lines.

(b) I am not aware that the officers operate from lodgings. However, I am aware that Luanda Police Station is situated on a quarter-acre piece of land which accommodates the station building, the OCS' house, a police dog unit, traffic office, two uni-huts used as offices and two pit latrines. The quarter-acre plot has been fully utilised, hence there is no place to put up police lines. The officers, therefore, live in rented houses in Luanda Market, while those at Imito Police Patrol Base occupy rented houses at Imito Market, and officers deployed at Emali Police Patrol Base also live in rented houses at Ebiyangu Market.

(c) The District Security Intelligence Committee (DSIC) has approached the District Development Committee (DDC) to source for land to build Emuhaya Police Station and its satellite police post lines in Emuhaya Constituency. We hope that the hon. Member can help us to obtain this land.

Mr. Marende: Mr. Deputy Speaker, Sir, I am grateful for the answer by the Assistant Minister. But this answer does not give any hope for Luanda Police Station, which is a full-fledged police station. Luanda Town Council has already identified land which is immediately available. Could the Assistant Minister confirm that they can commence construction of police lines in a matter of two to three months if I gave them a letter of allotment for this land?

Mr. Kingi: Mr. Deputy Speaker, Sir, I have indicated in my answer that the DSIC had approached the DDC for the acquisition of a piece of land. So, if we can get proof from the Member that there is available land, we will commence our programme to ensure that the police lines are put up.

Mr. Ndolo: Mr. Deputy Speaker, Sir, it is not only in Emuhaya where there are no police lines. All police stations have no toilets or running water, yet prisons are being rehabilitated. What is the Assistant Minister doing to make sure that these police stations all over the country are rehabilitated?

Mr. Kingi: Mr. Deputy Speaker, Sir, we have a programme to upgrade police houses. If the hon. Member has been following some of the projects we have been doing, he will agree with me that we have started to put up police houses here in Nairobi. We also have a programme to lease housing units for our officers. I am sure that by and by, we will cover all our stations and house our officers.

Mr. Ligale: Mr. Deputy Speaker, Sir, since the hon. Member has promised to avail land in Luanda Town Council, could the Assistant Minister confirm if the funds have been budgeted for in this financial year? Could he also tell us how much they are? This is to ensure that construction starts as soon as possible.

Mr. Kingi: Mr. Deputy Speaker, Sir, I think the Printed Estimates are available in the House. If the hon. Member looks at them, he will find the amount we have set aside for that project. In some cases, we also request hon. Members to chip in a little of their Constituency Development Fund (CDF) so that we can work together.

Mr. Khamisi: Mr. Deputy Speaker, Sir, the issue of police accommodation is very urgent. We still have many police stations in this country that have *mabati* houses. One of them is Mtwapa Police Station which is in my constituency. Could the Assistant Minister give us an indication as to when the programme of rehabilitation of police houses will be completed, so that all police officers in this country are properly and decently accommodated?

Mr. Kingi: Mr. Deputy Speaker, Sir, it is not only Mtwapa Police Station that has *mabati* houses. Even my police officers live in such houses. That is why I have said that there is a programme in place that will address that problem. By and by, we will cover every police station in the country.

Mr. Marende: Mr. Deputy Speaker, Sir, from the answers the Assistant Minister has given, it is apparent that he is not conversant with the prevailing accommodation circumstances of police officers attached to Luanda Police Station. Could he undertake to visit that police station? If he finds that those officers live in boarding and lodging houses, which is the case, he should correct that situation urgently; otherwise, they pose a danger instead of offering security.

Mr. Kingi: Mr. Deputy Speaker, Sir, indeed, I undertake to visit some of those police stations. Last time, I undertook to visit Rangwe Police Station and I did that. I will visit Luanda Police Station in future.

PROVISION OF FUNDS FOR CONSTITUENCY OFFICES

Mr. Muiruri: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Is the Minister aware that following authority to establish constituency offices, Members of Parliament signed lease agreements with landlords and employment contracts with office managers and other support staff?

(b) Is he further aware that no funds have been received since July, 2006, to pay for rent and salaries of employees, forcing MPs to bear the costs to avoid litigation?

(c) What immediate steps is the Minister taking to ensure that the funds are remitted?

Mr. Deputy Speaker: Mr. Minister for Finance, I have a copy of the written answer which does not seem to relate to the Question!

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, it does.

Mr. Deputy Speaker: Then go ahead and answer the Question.

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that following authority to establish the constituency offices, different Members of Parliament have put in place different mechanisms towards implementation of the same. The authority refers to authority both from the CDF as well as from the National Assembly.

(b) I am not aware that no funds have been received by Constituency Development Committees since July, 2006.

Hon. Members: No! No!

Mr. Deputy Speaker: Order, hon. Members! Let the Minister finish reading his answer!

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, Treasury will continue to release funds to the accounting units for the implementation of identified programmes in accordance with the CDF regulations.

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

Mr. Deputy Speaker: Order, hon. Members! Could you sit down? I drew the attention of the Minister to that fact because the Question should be directed to the Parliamentary Service Commission (PSC), because it is the one which receives this money and accounts for it. The Minister's response was alluding to the CDF and the hon. Member has asked a Question about constituency offices. That is why I thought that, perhaps, this Question should be deferred and directed to the PSC!

Mr. Muiruri: On a point of order, Mr. Deputy Speaker, Sir. I do not want to be seen to be arguing with you. However, are you saying that the Question should be addressed to the Speaker himself and not to the Minister for Finance?

Mr. Deputy Speaker: Let me put it this way. The Minister has clearly said that they have released the funds to the various accounting units. In this case, the funds have been released to the PSC. Therefore, this matter, hon. Members, is and must be addressed by Parliament. It is not the Minister for Finance who should answer this Question. This is a problem of the PSC. The Chair will see to it that it is addressed.

Maj. Madoka: Mr. Deputy Speaker, Sir, we understand that the Treasury is the one that has not released the funds. That is what we have been told by the PSC officers.

Mr. Deputy Speaker: Mr. Minister, would you like to respond?

Mr. Kimunya: Mr. Deputy Speaker, Sir, I confirm to this House that the Treasury has released the funds to all the accounting units, including Parliament. That is why they are even getting their salaries.

Mr. Deputy Speaker: Back to what I ruled, this matter will be addressed adequately by Parliament. This matter has to be addressed!

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

Mr. Deputy Speaker: Hon. Members, you ought to learn that when the Chair rules on a matter, the matter ends there!

Next Question by Mr. Munya!

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.200

HARDSHIP ALLOWANCE FOR TEACHERS IN TIGANIA EAST CONSTITUENCY

Mr. Munya asked the Minister for Education:-

(a) whether he could inform the House whether schools in Thangatha, Ankamia and Buuri locations in Tigania East Constituency are within TSC designated hardship areas;

(b) whether he could also name the schools in the locations whose teachers are receiving hardship allowance; and,

(c) why did the TSC withdraw hardship allowances for Rumanthi Primary School in Buuri Location.

Mr. Deputy Speaker: The Assistant Minister for Education, Mrs. Mugo, has requested the Question to be deferred because she has not received enough information to enable her answer your Question, Mr. Munya. What do you have to say?

Mr. Munya: Mr. Deputy Speaker, Sir, you will remember that this Question was deferred last week. It was placed on the Order Paper last week, but it was deferred because she did not have enough information. I am surprised that it takes the Assistant Minister more than two weeks to get information on a simple Question like this.

Mr. Deputy Speaker: Mr. Munya, I agree with you, but in order for the Assistant Minister to answer the Question adequately, let us give her up to Tuesday next week. The Question is deferred for the last time to Tuesday next week!

(Question deferred)

Question No.319

LATF-FUNDED PROJECTS IN
BUTERE CONSTITUENCY

Mr. Oparanya asked the Minister for Local Government:-

(a) how much has been remitted to Butere/Mumias County Council from LATF since the Fund's inception; and,

(b) what projects have benefited from LATF in Butere Constituency and how much was spent on each project.

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, I beg the indulgence of the House for this Question to be deferred until Thursday next week. I have perused through the facts obtained from the ground and the answer we had prepared is inadequate. I request the House to allow me answer this Question on Thursday next week.

Mr. Oparanya: Mr. Deputy Speaker, Sir, this is the fourth time this Question is being deferred. This information can easily be obtained from the records of the county council. I do not know why the Assistant Minister is requesting the House to defer the Question once more.

Mr. Deputy Speaker: We were doing very well last week, but we seem to be reversing the gear. Really, why should we defer a Question four times, Mr. Assistant Minister?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, last week, you deferred the Question because the hon. Member wanted to peruse through the copy of the written answer. After extensive consultations and receiving the facts from the ground, I felt that we be given additional time so that the hon. Member can be satisfied with the answer that the Ministry will give. We have received all the facts, but we could not make the answer ready by today. This is because we received some of the facts today.

Mr. Deputy Speaker: Very well! The Question is deferred for the last time to Wednesday next week, in the morning!

(Question deferred)

Next Question by Maj-Gen. Nkaiserry!

*Question No.566*DISBURSEMENT OF LATF/LASDAP
FUNDS TO LOCAL AUTHORITIES

Maj-Gen. Nkaisserry asked the Minister for Local Government:-

- (a) whether he is aware that LATF and LASDAP funds are controlled and disbursed at the Ministry headquarters;
- (b) what action he is taking to ensure that the local authorities control and disburse the funds directly to community projects;
- (c) how much LATF and LASDAP funds have been allocated to Kajiado Town and Olkejuado County Councils for the last four years; and,
- (d) which projects have benefited from the funds and by how much.

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the LATF, which is also commonly known as LASDAP, funds are controlled and disbursed at the Ministry headquarters.

(b) Indeed, the Minister for Local Government approves all local authorities' annual budgets. In most of those budgets, the Minister ensures that LASDAP projects are factored in the budget.

(c) The amount disbursed to the two councils for the last four years is as follows:-

| <u>Council</u> | <u>Financial Year</u> | <u>Amount in Kshs</u> |
|----------------|-----------------------|-----------------------|
| Olkejuado | 2002/2003 | 24,864,205 |
| | 2003/2004 | 48,103,374 |
| | 2004/2005 | 51,431,378 |
| | 2005/2006 | 64,747,393 |
| | Total | 196,145,350 |
| Kajiado | 2002/2003 | 3,054,025 |
| | 2003/2004 | 4,470,769 |
| | 2004/2005 | 4,697,295 |
| | 2005/2006 | 5,603,399 |
| | Total | 17,825,498 |

The projects that have benefited from these funds are listed per each financial year. For the 2002/2003 financial year, the projects were 39; the 2003/2004 financial year - 46; the 2004/2005 financial year - 37, and the 2005/2006 financial year - 60. The projects for the town council are grading of roads, construction of nursery schools and construction or fencing of bus parks.

Maj. Gen. Nkaisserry: Mr. Deputy Speaker, Sir, the Assistant Minister did not answer part "b" of the Question, which was: What action is the Minister taking to ensure that the local authorities control and disburse the funds? Olkejuado County Council received Kshs186 million for the four years, but you can hardly see a tangible project. The Assistant Minister has not answered part "b" of the Question. I would like him to specifically answer that part of the Question before I ask my supplementary question.

Mr. Tarus: Mr. Deputy Speaker, Sir, part "a" of the Question partly answers part "b". The Ministry of Local Government is administering LATF under an Act of Parliament. Unless we change it we cannot do otherwise. The hon. Member has said that projects being funded by LATF cannot be seen on the ground. This is the very reason why those funds should be managed from the Ministry. It does not seem to satisfy what the hon. Member is asking us to do. The funds have

already gone to the ground. The funds are not available and that is why the hon. Member is asking us to give them more funds again, through the local authorities. Perhaps the hon. Member needs to get his facts correct.

Mr. Deputy Speaker: Mr. Assistant Minister, you have given a very long explanation in both cases.

Mr. Mwanzia: Mr. Deputy Speaker, Sir, this Question is similar to Question No.319 on the Order Paper. It seems as if there is a huge outcry throughout the country because these projects funded by LATF cannot be seen. Could the Assistant Minister consider giving us a list of all the projects from local authorities and either table it in the House and have them published in the media so that we can see them? They should be displayed in the chiefs' or DCs' offices because we cannot see them anywhere.

Mr. Tarus: Mr. Deputy Speaker, Sir, indeed, what the hon. Member has said is concerned with what we should do. Olkejuado is not the only council where we are receiving complaints with regard to implementation or utilisation of those funds. In the next few weeks, we shall ask each local authority to submit projects funded through LATF. We will ask for a list of all projects which have been completed and those which have not been completed for purposes of ensuring that we account for the money that has been disbursed to each local authority.

Mr. Rai: Mr. Deputy Speaker, Sir, the Assistant Minister has said that in the next few weeks, they will ask the local authorities to come up with a list of all the projects. Why should this be the case since each local authority has an auditing section? Does the Ministry ever go to the ground to find out whether these projects have been implemented or not? If they do not do that, when will they do that?

Mr. Tarus: Mr. Deputy Speaker, Sir, we are supposed to audit all the projects. We have had one problem with each local authority, which is that most of them do not have adequate staff. This is an issue that needs to be addressed urgently for the reason that there is a lot of work to be done regarding most of the projects that we have funded.

Maj. Gen. Nkaiserry: Mr. Deputy Speaker, Sir, the Assistant Minister has not given an appropriate answer. We cannot allow this Ministry to get away with this. I have a report from Olkejuado County Council which was in response to the Question from the Ministry. The Ministry completely failed to report what was happening in Olkejuado County Council. Some of the projects which this Ministry has certified are complete have not been completed at all. The Clerk to the council says: "The Ministry has purposefully or intentionally avoided reporting on what we have done." What can the Assistant Minister say about this? I am sure this problem is not just in Kajiado District because it is prevalent in other areas of the country. Can we allow this Assistant Minister to get away with this? I can lay this report on the Table.

*(Maj. Gen. Nkaiserry laid the
document on the Table)*

Mr. Tarus: Mr. Deputy Speaker, Sir, these answers that we give emanate from the local authorities. If, in any instance, we have been given contrary information to what the hon. Member has been given, then this borders on indiscipline and we will take some action for any discrepancy, where the same local authority has given this House information which is inappropriate.

Mr. Deputy Speaker: Mr. Assistant Minister, you are, therefore, saying that you would like to have a look at the document which has been laid by the hon. Member, and if it is relevant you would like to come back? Therefore, we will do justice to the Question by deferring it.

Mr. Tarus: Mr. Deputy Speaker, Sir, I am reluctant to request that we defer this Question,

but I can undertake to bring to the House a statement next week, on Thursday, with regard to this particular issue.

Mr. Deputy Speaker: Mr. Assistant Minister, you have yourself shown some doubt on this Question, therefore, I think it is only fair that we defer it to Thursday next week.

Maj. Gen. Nkaiisery: On a point of order, Mr. Deputy Speaker, Sir. I think the Question should be deferred further than that.

Mr. Deputy Speaker: The Question is deferred generally.

(Question deferred)

COMMUNICATION FROM THE CHAIR

VISITING MEMBERS OF PARLIAMENT
FROM UGANDA

Mr. Deputy Speaker: Hon. Members, I have to interrupt the Question Time segment to introduce to the House, hon. Winfred Masiko, who is a Member of Parliament of the Parliament of Uganda. Hon. Masiko is here as a guest of the Kenya Women Parliamentary Association. She is the Chairperson of the Uganda Women Parliamentary Association. On behalf of the House, I want to take this opportunity to welcome her and to wish her a good stay in our Republic.

(Resumption of Oral Answers to Questions)

Question No.403

CLEARANCE OF DEBT OWED TO MR.
BAGHAZAL BY CENTRAL POLICE STATION

Mr. Rai asked the Minister of State, Office of the President:-

(a) whether he is aware that Mr. Ramadhan Mohamed Baghazal has an outstanding account with the Central Police Station for the supply of prisoner meals to the tune of Kshs1,655,660; and,

(b) what urgent measures he is taking to ensure that this account is cleared.

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

(a) I am aware that the officer in charge of Central Police Station, Mombasa, initially owed the police canteen operator, Mr. Ramadhan, a total of Kshs3.1 million and not Kshs1.6 million as stated by the Questioner in respect of food supplied to prisoners in police custody.

(b) The Ministry has taken the following steps: During the 2005/2006 financial year, the canteen contractor was paid Kshs1.4 million. In the current financial year, that is 2006/2007, the contractor has already been paid a total of Kshs800,000.

(Loud consultations)

Mr. Deputy Speaker, Sir, I am not sure that hon. Members are following what we are saying.

Mr. Deputy Speaker: Could you listen to the Assistant Minister? Mr. Assistant Minister,

it is actually your colleagues on the Front Bench who are not listening.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, the remaining balance of Kshs900,000 will be catered for during the 3rd and 4th quarters allocation of the current financial year. The canteen contractor collected a cheque from Mombasa District Treasury.

Mr. Rai: Mr. Deputy Speaker, Sir, I am actually surprised by the answer given by the Assistant Minister. The Office of the President is rated number one in corruption because of this exercise of paying contractors by instalments. Could the Assistant Minister tell this House why these contractors are being paid by instalments and whether they are also considering the issue of paying interest while paying the principal amount?

Mr. Kingi: Mr. Deputy Speaker, Sir, we pay our contractors when we receive money from the Treasury. Mr. Ramadhan is not the only supplier. The issue of interest does not arise.

Mr. Rai: Mr. Deputy Speaker, to the best of my knowledge, every Ministry comes to this House when estimates are being presented, and the budget was just read a few months ago. I do not know why the Assistant Minister cannot tell this House why this debt was not factored in the estimates so that it could be cleared in the financial year 2005/2006, instead of it being carried forward to 2006/2007.

Mr. Kingi: Mr. Deputy Speaker, Sir, it is true that this amount was factored in, but we receive money from the Treasury in quarterly instalments. We pay as we receive the money. It should not be lost that as we pay the contractor, he continues to supply. So, it is an engagement that continues.

Mr. Deputy Speaker: Mr. Assistant Minister, the way I understand this issue, the suspects are fed by this contractor. I am sure this happens in many stations. Do you not think that the Government should pay this supplier because it is affecting the business of these traders? These are not big traders for whom you can keep their money. You should realise that this matter has been raised in the House severally. Do you not think that you are ruining the local small businessmen who are supplying foodstuffs to police stations?

Mr. Kingi: Mr. Deputy Speaker, Sir, I agree with your observation, but I have also said that this is an ongoing activity. We pay as we receive the amount of food from the contractors. If we receive food in the last bit of the year, for example; say the last quarter of 2005, then definitely we will pay for that food in the 2006 financial year. There is nothing else we can do about that.

Mr. Deputy Speaker: Mr. Assistant Minister, I will give you an assignment. Go and look at Mwingi Police Station. You will find a similar case.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, the Assistant Minister has shown that he knows very little about the subject. When we go to a restaurant to eat, we pay. This is making it very difficult for ordinary Kenyans to do business with the Government. Nobody can incur this kind of debt and continue to supply. Could the Assistant Minister tell us what changes he is going to make, to ensure that ordinary Kenyans actually benefit from this service?

Mr. Kingi: Mr. Deputy Speaker, Sir, when I go to a hotel, I eat and pay. However, I am not in a position to know how many prisoners I will hold in Mombasa Central Police Station tomorrow. That is why we have a figure that we allocate and then pay as they eat. So, I am dealing with a subject I know about.

Mr. Billow: Mr. Deputy Speaker, Sir, the truth of the matter is that such money is not going to be paid to a contractor unless he is willing to pay some kickback. Since this Ministry undertook 100 days Rapid Results Initiative programme that would ensure that there will be no corruption, could he undertake to pay this money within 100 days? The Kshs1 million, which is being demanded by the supplier, is available to a Ministry whose budget is over Kshs30 billion.

Mr. Kingi: Mr. Deputy Speaker, Sir, the hon. Member is introducing the issue of corruption here, yet there is none. I have said that we engage contractors who supply food to us and we pay them in instalments as and when the money is received by us from the Treasury. This is

what we are doing and will continue to do. There was a debt of Kshs3 million, and we have paid. Now there is a balance of Kshs900,000, which I have promised will be paid in the last quarter of the year.

Question No.142

INTRODUCTION OF HEROES DAY

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

(a) whether he was aware that most freedom fighters have not been given any national recognition; and,

(b) whether he could consider abolishing both Kenyatta and Moi days and in their place have Heroes Day.

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

(a) I am not aware.

(b) Subject to the wide acceptance by Kenyans, the Government will consider harmonising Kenyatta and Moi days with a view of establishing Heroes Day.

Thank you.

Mr. Mukiri: Mr. Deputy Speaker, Sir, you have heard how the Assistant Minister has answered that Question. He is very casual! This is the way the Government has been treating the freedom fighters.

The Assistant Minister cannot say that he is not aware about the issues raised in the Question. He is a Kenyan and he knows that there is no recognition that has been given to our freedom fighters. There are very many of them, for example, the late Dedan Kimathi, Koitalel arap Samoei, Fred Kubai, Bildad Kaggia and so many others. There is nothing that the Government has done since Independence. What is the Government doing to make sure that these people are properly recognised as our heroes?

Mr. Kingi: Mr. Deputy Speaker, Sir, in all the districts, we have the District Honours and Award Committees (DHAC) who are charged with the responsibility of identifying heroes or any other important persons for awards. When they do their work, they forward their nominations to the national committee. Every time we have received names from the DHAC, we have always gone ahead to recognise these personalities. That is why we have several people who have been awarded in the past. We will continue to do that, if there are any.

*(Mr. Ochilo-Ayacko stood up
in his place)*

Mr. Deputy Speaker: Mr. Ochilo-Ayacko, if you want to ask a question, just ask it.

Mr. Ochilo-Ayacko: Mr. Deputy Speaker, Sir, when we talk about freedom fighters, most people think of the Mau Mau alone. We know people like the late Tom Mboya, Jaramogi Oginga Odinga and Koitalel arap Samoei. When will the Government honour these other heroes who did tremendous work for the freedom of this country?

Mr. Kingi: Mr. Deputy Speaker, Sir, I have said that we have honoured such other personalities like Joseph Daniel Otiende, Jackson Angaine and many others. I have also said that we have district committees. If it is the feeling of the district committee that someone in their district should be honoured, let them submit that name to the national committee and we will go ahead and do the necessary.

Mr. Deputy Speaker: Let me assist the House here. I think the Assistant Minister is talking about something else, while hon. Members are also talking about something else. Hon.

Members are talking about heroes, living and dead, while the Assistant Minister is talking about people who require honours on Honours Day or during such other days. It is completely different! Those are conflicting statements. The answer is different from the Question. Mr. Assistant Minister, could you address yourself to the heroes, even those who are dead?

Mr. Kingi: Mr. Deputy Speaker, Sir, when I talk about people like the late Ngei, Ronald Gideon Ngala and Kung'u Karumba, I think, I am talking about freedom fighters. These people have been honoured. What I am saying is that if there are any others who have been left out, please, let it be discussed at the district committee; let the names be forwarded to us, and we will do the needful.

Maj. Madoka: Mr. Deputy Speaker, Sir, the Question addresses freedom fighters. There is a tendency to just think of the few whom we have heard about. Each year, I seem to see new names emerging as freedom fighters. Could the Assistant Minister ensure that we get a complete list of those people who are considered as freedom fighters and tell us those who have been decorated, if they are living or dead?

Mr. Kingi: Mr. Deputy Speaker, Sir, I think I am addressing myself to the Question that was raised. If Maj. Madoka wants us to give that information, let him file a Question and we will bring that information.

Mr. Deputy Speaker: In other words, do you have a directory? That is what the hon. Member is alluding to. I am sorry I have to keep on assisting. Do you have a directory of such people?

Mr. Kingi: Mr. Deputy Speaker, Sir, definitely, we have. That is why we have extracted from that document the few names that I have here.

Mr. Deputy Speaker: I have to go for the last question. Mr. Mukiri!

*(Prof. Anyang'-Nyong'o stood
up in his place)*

Order, Professor! We cannot go on forever! What is the point of order, Prof. Anyang'-Nyong'o?

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. This a very important Question. Would it be in order for me to request the Assistant Minister to bring to this House a Sessional Paper on heroes? This will enable us to discuss the concept of heroism and give the Government direction as to how to implement this Heroes Day.

(Applause)

Mr. Kingi: Mr. Deputy Speaker, Sir, there is no objection to that!

Mr. Deputy Speaker: Have you undertaken to bring the Sessional Paper?

Mr. Kingi: That is what I have said, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: There is no objection! Mr. Mukiri, are you satisfied?

Mr. Mukiri: Mr. Deputy Speaker, Sir, the way the Assistant Minister is answering this Question is very sad. He is telling us to go back to our districts. This is a national issue. It has nothing to do with the district. We are talking of people who fought for this country. I am happy to hear that the Assistant Minister has undertaken to bring a Sessional Paper.

(Mr. Kingi moved to the Dispatch Box)

Mr. Deputy Speaker: Order, Mr. Kingi! Can we hear Mr. Mukiri?

Mr. Mukiri: Mr. Deputy Speaker, Sir, the other day, I saw some Kenyans in Nandi trying to build a monument for the late Koitalel arap Samoei, yet the Government has done nothing---

Mr. Deputy Speaker: Ask a question!

Mr. Mukiri: Mr. Deputy Speaker, Sir, could the Assistant Minister consider setting up a committee that will deal with this issue once and for all?

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Let us consult quietly!

Mr. Kingi: Mr. Deputy Speaker, Sir, we have a committee at the national level. However, we require information from the district level. If there is any freedom fighter who has not been listed for honour, I would like the district committee to submit to the national committee names of these heroes and we will definitely do the needful. The national committee still depends on the district committees for such information.

Question No.261

DESTRUCTION OF RIAKANAU FOREST

Mr. Deputy Speaker: Hon. Members, this Question by Mr. J. Nyagah is addressed to the Minister for Environment and Natural Resources. The Minister called to say he will not be available. However, I note that this Question has been deferred many times. This Question has been on the Order Paper for a long time. Therefore, I would like to ask that the Minister communicates with the office of the Clerk, because he is not in town, as to when this Question will be answered.

(Question deferred)

Question No.603

CRITERIA FOR SETTLEMENT/REJECTION OF PENDING BILLS

Mr. Ojode asked the Minister for Finance:-

- (a) what criteria was used to settle and/or reject the pending bills that various businessmen and contractors had claimed from the Government;
- (b) if he could table a list of firms whose claims were approved and those not approved; and,
- (c) what action he will take against the public officers who had approved fraudulent claims against the Government.

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The criteria being used by the pending bills closing committee to approve or reject the pending claims focuses on the grounds on which the claim is made and the supporting documents availed to the committee by the claimants.

(b) Since the pending bills closing committee has not yet finalised its work and submitted its final report, it is not possible for me to table a list of firms whose claims were approved and those whose claims were not approved.

(c) Appropriate action will be taken against any public officer who is investigated and found to have approved fraudulent claims against the Government.

Mr. Ojode: Mr. Deputy Speaker, Sir, you will agree with me that the answer by the Minister is quite vague. He is on record as saying that Kshs233 million was the only amount which was approved and about Kshs800 million will be paid back by the claimants. Could he answer part

"b" of the Question by tabling the names of those firms that were approved by the pending bills closing committee? The report should have been finalised by February this year. They extended it to September. Could he table the names of the claimants?

Mr. Kimunya: Mr. Deputy Speaker, Sir, the hon. Member is very correct that I have on many occasions stated that out of the claims that have been processed so far, we have only paid an amount of Kshs233 million. For the benefit of the House, when the claims were called for, the various people who were claiming to have been owed by the Government submitted claims to the pending bills closing committee. We picked on the top 40 claims in terms of value, which amounted to well over Kshs70 billion. Out of those 40--

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

Mr. Deputy Speaker: Order, Mr. Sungu! Could you let the Minister finish? What is it?

(Loud consultations)

Mr. Sungu: Mr. Deputy Speaker, Sir, my point of order has been overtaken by events. However, there were loud consultations on the Government side. We could hardly hear the Minister, and yet this Question is very important.

Mr. Deputy Speaker: Well, hon. Members, could you consult in low tones so that the Minister can be heard?

Mr. Kimunya: Mr. Deputy Speaker, Sir, for the benefit of those who are consulting, we asked all those people who were owed monies by the Government to submit their claims. Claims were submitted in excess of over Kshs100 billion. We picked the first 40 for the first phase of the investigations in terms of value. They amounted to over Kshs70 billion. After analysis, out of those 40 claims, only seven were deemed to be payable to the tune of the Kshs233 million. Another six firms owe the Government Kshs800 million. For all the other firms, there is nothing payable. This represents the first phase, which is the report that came out in February.

Mr. Deputy Speaker, Sir, the investigations are ongoing in terms of verifying the other claims representing the balance. Action is being taken in terms of claiming back from those who had over-claimed, and in terms of the officers who had been implicated.

At this point, I would like to urge the House and the Government to work together. We should not prejudice the current investigations that are going on. If hon. Members do agree, it will be prejudicial to the investigations to start tabling the details of the people who are being investigated, and to start tabling the investigations as to who is payable or not. Until we get the final report, I would be happy to table it in Parliament to show the people who claimed, who was paid and who was rejected.

Mr. Kajwang: Mr. Deputy Speaker, Sir, this matter has been with this Government since it was sworn in four years ago. The pending bills have been a problem of this Government. When this Government came into power, this problem was investigated by a committee in the Ministry of Roads and Public Works. This matter was later taken to the Ministry of Justice and Constitutional Affairs. Now it is with the Ministry of Finance and we are almost going for another General Election. When will we know about these pending bills so that this country can breathe fresh air again?

Mr. Kimunya: Mr. Deputy Speaker, Sir, indeed, this issue of pending bills is something that we need to bring to an end. The hon. Member is very right in saying that these pending bills had been subjected to a committee in the Ministry of Roads and Public Works. It is because we doubted the figures that had been recommended for payment by the committee from the Ministry of Roads and Public Works. That is when we subjected it to a subsequent review, through an inter-ministerial committee that is domiciled with the Ministry of Justice and Constitutional Affairs and the Treasury. It is because of this that we have reduced the liability by the Government from the Kshs70 billion to Kshs233 million. I thought this House would be applauding the Government for

reducing the public liability from the Kshs70 billion which was supposed to be paid, to a mere Kshs233 million, which has been paid to those who are due.

Mr. Deputy Speaker, Sir, I would like to assure this House that before the end of this year we will have completed all this so that we know that there shall be no more people who make money from making fraudulent claims against the Government, which was the order of the day before this Government took over.

Mr. Deputy Speaker: Let us now hear from the Shadow Minister for Finance, and then I will come to the last question by Mr. Ojode.

Mr. Billow: Mr. Deputy Speaker, Sir, what the Minister has told us with regard to the pending bills is not something new. The former Minister for Finance undertook in this House that when the pending bills closing committee does its work, a report will be tabled in this House before any payment is done. That was a pledge made on the Floor of this House. Could the Minister tell us, now that they have already started making payments, whether they have ignored litigation? Most of the people going to court to demand this money decided to opt for negotiation instead. Was that the basis on which the Kshs233 million was paid? Was this done on the basis of negotiation with those people who were claiming the money?

Mr. Kimunya: Mr. Deputy Speaker, Sir, like I said, the basis for verifying the claims and certifying which ones were payable or not was the tangible evidence laid before the committee. The committee needed evidence to show that services were rendered, or works were done, as contracted. In all those claims, you would find people claiming that they built what they called Treasury House Annex. We all know where the Treasury Building is, and we all know that there is no Treasury House Annex that has been built. Some people are claiming Kshs8 billion for building it. There are some ridiculous claims that have been subjected there. On all the claims that were certified by the committee, which is composed of professionals, we have been given all the evidence and told to pay this, because a claimant has proved that he delivered goods; there was a contract and this was the value. In terms of all the other people who went to court and obtained, through some abuse of the judicial process, court orders compelling the Government to pay them, by the fact of them subjecting themselves to the Pending Bills Closing Committee, they had already agreed that they would not go elsewhere to seek payment except through the Pending Bills Closing Committee. The decisions made by the committee are meant to protect public money. This is what the Kibaki Government is all about.

Mr. Deputy Speaker: Last question, Mr. Ojode!

Mr. Ojode: Mr. Deputy Speaker, Sir, the Minister has not convinced me as to why he cannot table the list of claimants whose payments have already been approved. He has not convinced me, just to table a list of those people who were paid Kshs233 million. Is he also aware that the same people, whom he alleges have been paid, will also claim interest from the date of contractual document?

Mr. Deputy Speaker: Order, Mr. Ojode! This is Question Time!

Mr. Kimunya: Mr. Deputy Speaker, Sir, like I said, I will be happy to table the full list of the people once all the claims have been dealt with. But at this point it would prejudice some investigations that are taking place, including on people who were making fraudulent claims and were attempting to defraud this Government. I do not want to start the roundabout things we have been going through with committees, picking on the list, and then going and clearing some people out there, and compelling the Ministry to pay. I would rather continue with the process as it is continuing.

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

Mr. Deputy Speaker: Order!

Mr. Kimunya: In terms of the interest payable, the claims are exhaustive in terms of people and what to claim. The technical team is very clear in terms of what they can approve, in terms of the contractual obligations that were there between the clients and the Government.

*(Messrs. Ojode and Gitau
stood up in their places)*

Mr. Deputy Speaker: Order! Could both of you sit down? Hon. Members, there is this culture of interrupting an hon. Member on the Floor. The Minister is responding to an hon. Member, and when he is not happy with what he is being told, he decides to rise on a point of order. I want us to allow Ministers to complete delivering their answers, then, thereafter, you can raise what you want. That is what all other Parliaments all over the world do. I have not seen any other Parliament - and I have visited many - where hon. Members interrupt others when they are responding to matters raised. I have visited many Parliaments. On that note, we go to the next Question.

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

Mr. Deputy Speaker: Order! I will not allow another point of order on that matter.

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

Mr. Deputy Speaker: Mr. Ojode, you are being disorderly. Proceed, Mr. Wario!

Question No.171

IMPROVEMENT OF AGRICULTURAL
PRODUCTION/FOOD SECURITY IN BURA

Mr. Wario asked the Minister for Agriculture:-

(a) what his Ministry has done to improve agricultural production and food security in Bura Constituency for the last three years;

(b) what concrete results from "a" above are; and,

(c) how much money the Ministry spent in the area during the period in question.

The Assistant Minister for Agriculture (Mr. Kembu-Gitura): Mr. Deputy Speaker, Sir, I beg to reply.

(a) To improve agricultural production and food security in Bura Constituency, the Ministry is undertaking the following activities, amongst others. We have enhanced extension services by staff deployment. Six more technical staff members have been posted to the area. We are improving transport facilitation by donating to the area two motor cycles and strengthening agricultural machinery services (AMS) in Garsen Station. There is promotion of local indigenous crops through multiplication of orphan crops seeds such as sorghum, millet, cow peas, beans, green grams and cassava, which do well in the region. We have promotion of small-scale irrigation schemes and water harvesting technologies and have mobilised funding from development partners to support agricultural production.

(b) The results from "a" are as follows. A total of 23,121 farmers have been reached through field days, training, demonstrations, farm visits, group visits, *barazas* and information desks. Production per unit area for various horticultural crops has increased. Surface water basin and ridges have been established on ten acres in Godhia Catchment Area. A total of 22 small-holder irrigation schemes have been introduced, increasing the area under food crops from 314 hectares in 2002 to 505 in 2005 outside the Bura Irrigation Scheme. A total of 836 farmers in eight common interest groups, commonly known as CIGs, received a sum of Kshs902,633 from the Kenya Agricultural Productivity Project (KAPP) for promotion of farming opportunities.

(c) The Ministry has spent a total of Kshs14,479,614 in the constituency in the last three years.

Mr. Wario: Mr. Deputy Speaker, Sir, what specific policy measure has the Assistant Minister employed in addressing food insecurity in this area, in view of the under utilisation of the

river basin in the area?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, I believe that the hon. Member has asked about policy in Bura Constituency specifically to deal with the food insecurity. Yesterday, I answered a similar Question from Prof Mango. I mentioned that there are very many areas of policy that the Government is considering in order to improve food security in this country. May be the hon. Member, and all other hon. Members, need to look at the Strategy for Revitalisation of Agriculture, which is a policy Paper by the Ministry of Agriculture, which sets out the policy that the Government is implementing generally in the country to improve food security.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, many years ago the Kenyan Government sunk about Kshs1 billion into the development of the Bura Irrigation Scheme. When I was the Chairman of the Public Investments Committee in mid-1990s this project was dead, except for the infrastructure. This is a very important Question. Could the Assistant Minister inform the hon. Member, and this House, what steps the Government has taken to revive the Bura Irrigation Scheme and how that dove-tails to the food security strategy in Bura Constituency?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, I appreciate that question, because it is seeking information to the hon. Member and this House in general. It is common knowledge, and hon. Wario knows it, that the Ministry visited Bura Irrigation Scheme in August in the presence of His Excellency the President and a large delegation. During this visit specific areas of implementation and revitalisation of Bura Irrigation Scheme were discussed. The hon. Member knows that, and this is again in the public domain, the Government of Kenya, through my Ministry and that of Water and Irrigation, is spending substantial sums of money this financial year to revive the Bura Irrigation Scheme.

In response to the question raised by the Prof. Anyang'-Nyong'o, I think it is imperative that the issue of food security is not restricted to constituencies. It should be looked at from a national perspective. This is why I would encourage every hon. Member to look at the Strategy for Revitalisation of Agriculture in order to see what the Ministry is doing to address the issue of food security in the country.

Mr. Deputy Speaker: Last question, Mr. Wario!

Mr. Wario: Mr. Deputy Speaker, Sir, the Assistant Minister has said that Kshs14 million has been spent in the last three financial years. The reality on the ground is different. Could the Assistant Minister undertake to inform the House which specific projects they completed using this money?

Mr. Kembi-Gitura: Mr. Deputy Speaker, Sir, in the Financial Year 2003/2004 which falls in the three years that the hon. Member has talked about, Kshs4,372,908 was used in areas of agricultural extension and irrigation in Bura Irrigation Scheme. In the year 2004/2005, Kshs8,745,090 was again used for extension and irrigation at Bura Irrigation Scheme. In 2005/2006, Kshs508,712 was used on extension services and in the current year, 2006/2007, a total of Kshs822,904 was again used for extension services thus giving a total of Kshs14,479,614.

Mr. Deputy Speaker: Hon. Members, we are already ten minutes past Question Time and I have to ask hon. Kajwang to ask his Question lastly.

Question No.289

DELAY IN COMMISSIONING OF SECOND
FIXED LINE TELEPHONE OPERATOR

Mr. Kajwang asked the Minister for Information and Communications:-

- (a) what has hindered the commissioning of other providers in the fixed line telephone transmission; and,
- (b) if he could confirm that the monopoly enjoyed by Telkom Kenya in the

provision of fixed line telephones is beneficial to overall growth of the economy.

The Minister for Information and Communications (Mr. Kagwe): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Nothing has hindered the commissioning of other providers in the fixed line telephone transmission. The licensing of a Second National Operator (SNO) is ongoing. As the hon. Member may be aware, the selection of the candidate who will be the SNO was done through a competitive tender process which was concluded on the 26th October, 2006. The process led to the selection of a consortium known as VTEL whose financial bid was US\$169,696,969, that is, Kshs12.4 billion against two other bids by Reliance Consortium and Mahanaga Telephone Kenya Limited whose bids were at Kshs8.1 billion and Kshs3.8 billion respectively.

(b) Telkom Kenya does not have monopoly status any more. Since 2004 when the company's exclusivity ended, other service providers have been licensed as follows:

In the areas of international gateways, there has been issuance of two licences; local loop licences, 20 operators; VSAT, 84 operators; and public data network, 31 operators.

In view of the technological convergence, some of these licences are in the process of being merged into one licence called the Data Carrier Network Operator (DCNO). It is, therefore, evident that the licensing of more operators in the provision of fixed line telephone services is beneficial to the overall growth of the economy and it has started reducing the cost of telephone services in the country. This will lead to a reduction in the cost of doing business in Kenya.

Mr. Kajwang: Mr. Deputy Speaker, Sir, I would like to thank the Minister for doing some work since he joined this Ministry. His answer is a very good one. However, allow me to ask one question arising from the answer he has given.

What hinders us from issuing out as many licences as possible to those who want them so that they can go and compete in the market so long as they give us the infrastructure? Looking at this kind of money, VTEL Consortium is ready to give us Kshs12 billion and then lay down the infrastructure. Why can we not allow Reliance Consortium and Mahanaga Telephone Kenya to give us Kshs8 billion and Kshs3.8 billion respectively so that we build the highway from Mombasa to Kisumu or expand the Kisumu Airport? Again, these companies will be able to compete effectively---

Mr. Deputy Speaker: Order, Mr. Kajwang!

Mr. Kajwang: Thank you, Mr. Deputy Speaker, Sir.

(Laughter)

Mr. Kagwe: Mr. Deputy Speaker, Sir, I will be happy to sit with hon. Kajwang in my office and take him through the whole process. Indeed, the reason why somebody would take Kshs12 billion is precisely because he does not expect others to be there in a while. If we knew that there are going to be three or more other providers, probably they would not have been required to pay that money.

Mr. Deputy Speaker, Sir, having said that, the convergence of technology is going to overcome what hon. Kajwang is saying. This is because by January 2007, we are going to converge the licences and companies such as Safaricom and Celtel will be able to offer other services as well.

Mr. Deputy Speaker: One last question, Mr. Kajwang!

Mr. Kajwang: Mr. Deputy Speaker, Sir, why is it that up to now there has not been any licence for a third mobile operator?

Mr. Kagwe: Mr. Deputy Speaker, Sir, the problem of not having a third mobile operator does not emanate from the Ministry as such. The reason why they have not rolled out is because of quarrels between the shareholders. I would like to clarify the misunderstanding that there is an interest on the part of the Ministry or some officers. Truly speaking, there is not. This is an issue

that purely lies with the shareholders themselves. As soon as they conclude their cases in court, they will be allowed to roll out any time.

Mr. Deputy Speaker: Well, hon. Members, that is the end of Question Time! We have some miscellaneous items. You wanted to raise something, Mr. Kagwe.

POINTS OF ORDER

PERFORMANCE APPRAISAL OF MEMBERS BY THE MEDIA

The Minister for Information and Communications (Mr. Kagwe): On a point of order, Mr. Deputy Speaker, Sir. I want to raise a matter related to the reports in today's newspapers about the performance of Members of Parliament.

Whereas it is not in the tradition of this House to respond to matters that are appearing in the Press, nonetheless, the standing of some of the hon. Members of this House is demeaned by some of these reports. I would like to give an example. On the front page of the *Daily Nation* today, the report clearly says that hon. David Were, an Assistant Minister in the Ministry of Information and Communications has never contributed in this House.

Mr. Deputy Speaker, Sir, that is totally wrong because hon. Were is an extremely active Member of Parliament. The HANSARD shows that he has contributed immensely on issues in this House, including contributing to Motions, Bills and answering several Questions. I have with me some of those HANSARD Reports. He is not the only hon. Member; I am just using him as an example. In making this judgement public, those concerned should learn from the House that in judging Members of Parliament, it is good to recognise the fact that Ministers and Assistant Ministers do not ask Questions.

Operating from the premise of little knowledge is very dangerous. The impression that has been created by the Press is that some of our colleagues are not active when we know very well that in Committees of this House, Members of Parliament are extremely active and contribute a lot. This is, however, not on record.

Therefore, I am simply seeking guidance from you: What happens when an hon. Member is said to be doing nothing because those people he represents will believe the newspapers and yet we know it here that, that hon. Member is an extremely active person in this House?

(Applause)

Mr. Deputy Speaker: Very well. I think the Minister has put it very well. Last year, there was such a report, as hon. Members are aware. The Chair made some remarks regarding those reports which purport to be assessing the performance of hon. Members of Parliament. The position of the Chair remains the same that such reports belong to the dustbin. I think that is all we can say.

The reports that purport to be assessing the performance of Members of Parliament which were published yesterday by some organisation, belong to the dustbin. That is what the Chair said last year and we are saying it again this year.

Mr. Ogun: On a point of order, Mr. Deputy Speaker, Sir. The Chair always advises us whenever we consult here that we should remain quiet and listen to speakers in this House. That is part of our work in this House. Sometimes we actually stand up to contribute, but we do not catch the Speaker's eye. At the same time, we do the work of sitting and listening to the few who have caught the Speaker's eye!

Mr. Deputy Speaker, Sir, I have the support of the House that listening is also part of the work that we do here!

(Laughter)

Mr. Deputy Speaker: I cannot agree with you more because the work of a Member of Parliament is not only to ask Questions. That is why Mr. Kagwe rightly put it, that the report is based on ignorance. In fact, I think you are giving it credibility by continuing to discuss it. If I were you, I would simply say that it belongs to the dustbin and forget about it. You are giving that report credibility!

What is it, Mr. Wanjala?

The Assistant Minister for Water and Irrigation (Mr. Wanjala): On a point of order, Mr. Deputy Speaker, Sir. As much as you say that we throw this report on our performance in this House into the dustbin, I want to tell you that, that is not a decision of the public court. Why can this House not, through you, take some measures like taking this organisation to court on behalf of Parliament instead of dismissing this report by urging us to drop it into the dustbin when the people of Matungu are already judging a very hard working Assistant Minister like hon. David Were?

Mr. Deputy Speaker: Mr. Wanjala, this House has no control over that report and I do not think we need to go further.

The Assistant Minister for Information and Communications (Mr. Were): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Were, you know your Minister has said it all for you. Surely, it is not fair for you to stand and want to say something when the Minister has so ably stated your position.

AIRLIFTING OF INJURED GOVERNMENT OFFICERS

Mr. Billow: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement and some action by the Minister of State for Administration and National Security.

On 30th October, at 8.00 a.m. in the morning, a Government of Kenya (GK) Land Rover belonging to the Provincial Administration which was carrying 11 passengers including nine members of the Administration Police and two chiefs from my constituency overturned at a place called Ndando due to heavy rains. One Administration Police Officer died on the spot. Three of the rest, including two chiefs, were injured badly. Three days later, and up to now as we speak, the body of the person who died and those who were injured are still stuck in the same place where the accident occurred. All attempts by the District Commissioner who is here in Nairobi to try and get a helicopter so that they can go and ferry those people from that site have been in vain because police say all their helicopters are not serviceable and so forth. There are also no vehicles which are able to reach that place because of the heavy rains that are going on and the families of these people have agonized for the last three days. I want to appeal to the Leader of Government Business because the Minister of State for Administration and National Security is not here to urgently make arrangements for a chopper to go and pick these victims. It is a tragedy that injured Government officers and a body of their dead colleague who were on duty in a Government vehicle that rolled, including the two chiefs, are still there, three days after the accident occurred.

Mr. Deputy Speaker: Mr. Billow, are you saying that the injured are also there?

Mr. Billow: Yes, Mr. Deputy Speaker, Sir. All the nine injured people are also there. The area is not accessible because of heavy rains. They sent two Land Rovers to try and get there but they got stuck on the way. So, there is that tragedy and I think it is really a pity that something has not been done. I will appreciate if he could dispatch a chopper with utmost speed. I can give him all the details and the DC in charge is here in Nairobi and we can get all the details.

Mr. Deputy Speaker: I think this is a very urgent matter which cannot wait until tomorrow and I will ask the Vice-President and Minister for Home Affairs to respond to the issue now since the injured are still on the road three days after.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, I would appreciate if the hon. Member could give me all the details. I will go to the office to see what we can do.

Mr. Deputy Speaker: Very well. I am sure that the matter will be addressed.

(Applause)

KENYA'S POSITION ON SOMALIA CRISIS

Mr. Ligale: On a point of order, Mr. Deputy Speaker, Sir. I stand to request for a Ministerial Statement from the Ministry of Foreign Affairs on the deteriorating situation in Somalia. Kenya shares a very long and porous border with Somalia and, currently, because of the troubles in Somalia, we have a very large refugee population coming across into Kenya. For two years, we tried hard through committees of delegates meeting in Eldoret and here in Mbagathi in order to bring some order in Somalia and some transitional government was crafted after two laborious years. They stayed here for a while and eventually they were able to relocate. They have encountered problems since they cannot go to Mogadishu due to insecurity and now they are in the City of Baidoa. The Islamists have taken over the country.

As we speak, they are approaching the City of Baidoa. The only country that has shown some interest is Ethiopia which has deployed some soldiers in Somalia to try and guard that transitional government. We have done nothing. I am requesting for a Ministerial Statement from the Minister for Foreign Affairs to tell us, first, what, we as a government, we are doing to prop up that government which we crafted; and two, what we are doing as a government to ensure that our own territorial integrity is safeguarded in the event that the Islamists were to come across the border and into our territory. We need a Ministerial Statement to ensure that we are safe from those Islamists who seem bent on not only overrunning that government but maybe even crossing over into our country.

Mr. Deputy Speaker: Very well, Mr. Ligale. Is the Minister for Foreign Affairs here? He is not here and neither is his assistant. I believe the Leader of Government Business will benefit from the HANSARD and take action.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, I will do that.

(Applause)

Mr. Deputy Speaker: I am humbled!

REVIVAL OF IRRIGATION PROJECTS

Mr. Nderitu: On a point of order, Mr. Deputy Speaker, Sir. I wish to seek a Ministerial Statement from the Minister for Water and Irrigation as concerns what his office is doing in terms of reviving all stalled irrigation projects and what steps his Ministry is taking to make sure that our people do not die any more because of lack of food next year.

*(Mr. W. Galgallo stood up
in his place)*

Mr. Deputy Speaker: Mr. W. Galgallo, I can see you are on your feet. The only thing is that you are a new hon. Member and I wanted to draw your attention to the fact that you did not see me before. However, I will give you a chance to say what you wanted to say but in future see me

before the House business commences.

FLOODS IN MOYALE DISTRICT

Mr. W. Galgalo: Mr. Deputy Speaker, Sir, last week on Thursday, I requested for a Ministerial Statement from the Minister of State for Special Programmes with regard to floods wrecking havoc in my Moyale District and the Leader of Government Business promised to issue that statement today. Could I have my answer?

Mr. Deputy Speaker: Yes, I remember the hon. Member requested for a Ministerial Statement and it is due. Your Excellency, the Vice-President, could you again clarify this issue?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, the Ministerial Statement will be issued on Tuesday afternoon next week.

NOTICE OF MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

STRIKE CRISIS IN PUBLIC UNIVERSITIES

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I rise to move a Motion of Adjournment on a matter of national importance regarding the crisis in public universities in line with Standing Order No.20.

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

THAT, given the ongoing crisis in national universities; noting the contradictory statements given by the Government in Parliament and at various Press briefings; realising that there is an urgent need to promote dialogue that will help solve the crisis within the bounds of law and in the interest of the public good; this House do now adjourn to discuss the crisis in the public universities occasioned by a strike called by the University Academic Staff Union (UASU) as a matter of national importance in accordance with Standing Order No.20.

(Applause)

Mr. Deputy Speaker: Hon. Members, the Chair did receive the written request, in accordance with Standing Order No.20. I want to confirm that, having looked at it, I am satisfied that the matter is definite, urgent and of national importance, and that it may be raised. However, the matter shall only be raised subject to the hon. Member raising not less than 15 other hon. Members, who shall stand up in their places, in accordance with Standing Order No.23.

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

Very well, hon. Members! You may now resume your seats. I can see that the requisite number has, in fact, been surpassed.

(The hon. Members resumed their seats)

Therefore, the Chair will allocate one hour for debate on this matter. The Motion will be moved an hour before the closure of today's business, which will be at 5.30 p.m.

(Applause)

Next Order!

**COMMITTEE OF THE
WHOLE HOUSE**

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Rotino) took the Chair]*

**THE LICENSING (REPEALS AND
AMENDMENTS) BILL**

*(Clauses 2, 3, 4, 5, 6, 7,
8, 9 and 10 agreed to)*

*(Clauses 11, 12, 13, 14, 15, 16,
17, 18, 19 and 20 agreed to)*

*(Clauses 21, 22, 23, 24, 25, 26, 27,
28, 29, 30, 31, 32, 33, 34, 35, 36,
37, 38, 39 and 40 agreed to)*

*(Clauses 41, 42, 43, 44, 45, 46, 47,
48, 49, 50, 51, 52, 53, 54, 55, 56,*

*57, 58, 59, 60, 61, 62, 63, 64, 65,
66, 67, 68, 69 and 70 agreed to)*

*(Clauses 71, 72, 73, 74, 75, 76, 77,
78, 79, 80, 81, 82, 83, 84, 85, 86,
87, 88, 89 and 90 agreed to)*

*(Clauses 91, 92, 93, 94, 95, 96,
97, 98, 99 and 100 agreed to)*

*(Clauses 101, 102, 103, 104, 105, 106, 107,
108, 109, 110, 111, 112, 113, 114, 115, 116,
117, 118, 119, 120 and 121 agreed to)*

(Title agreed to)

(Clause 1 agreed to)

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Licensing (Repeals and Amendment) Bill and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT AND THIRD READING

THE LICENSING (REPEALS AND AMENDMENT) BILL

Mr. Rotino: Mr. Deputy Speaker, Sir, I am instructed to report that a Committee of the whole House has considered The Licensing (Repeals and Amendment) Bill and approved the same without amendments.

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

*(Archbishop Ondiek stood up
in his place)*

Mr. Deputy Speaker: Order, Archbishop Ondiek! I am proposing the Question!

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Finance (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move that the Licensing (Repeals and Amendment) Bill be now read the Third Time.

The Minister for Justice and Constitutional Affairs (Ms. Karua) seconded.

(Question proposed)

Mr. Muturi: Mr. Deputy Speaker, Sir, I want to commend the Minister for having successfully moved this formality of repealing our laws. I wish to observe that this was a very important Bill, but we have passed it without the benefit of any report from the relevant Departmental Committee.

With those few remarks, I beg to support.

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

MOTION

ADOPTION OF REPORT ON NOMINATION OF KNCHR COMMISSIONERS

Ms. Ndung'u: Mr. Deputy Speaker, Sir, I beg to move the following Motion:-
THAT, this House adopts the Report of the Departmental Committee on Administration of Justice and Legal Affairs on the deliberation on the nomination of commissioners to the Kenya National Commission on Human Rights laid on the Table of the House on Wednesday, 19th July, 2006.

Mr. Deputy Speaker, Sir, the National Commission on Human Rights Act came into force in March, 2003, and at that time, this House appointed to office nine commissioners. The commissioners that were appointed were:-

- (a) Mr. Maina Kiai - Chairman
- (b) Ms. Violet Mavisi - Vice-Chairperson
- (c) Mr. Tirop Kitur
- (d) Mr. Khelef Khalifa
- (e) Ms. Wambui Kimathi
- (f) Ms. Fatuma Ibrahim
- (g) Ms. Catherine Muyeka Muma
- (h) Mr. Godana Doyo
- (i) Mr. Lawrence Murugu Mute.

Mr. Deputy Speaker, Sir, Section 9 of the Act says:-

"Unless the appointment of the Chairman or a commissioner is earlier terminated under this Act, a person appointed as a commissioner shall hold office for a term of five years from the date of appointment and shall be eligible for reappointment for one further term for a period not exceeding five years".

The Section further provides:-

"In the case of initial commissioners, the Commission shall, at its first meeting, elect four commissioners whose terms of office shall expire at the end of three years and another four commissioners, whose terms of office shall expire at the end of four years from the date of appointment".

Mr. Deputy Speaker, Sir, these provisions ensure that commissioners must retire on a rotational basis to ensure the continuity of the work of the Commission.

Mr. Deputy Speaker, Sir, in July, 2006, the terms of the following commissioners expired:- Ms. Violet Mavisi, Ms. Catherine Muyeka Muma, Ms. Wambui Kimathi and Mr. Khelef Khalifa. In accordance with the KNCHR Act, the National Assembly advertised for the vacancies and called on the Departmental Committee on Administration of Justice and Legal Affairs to consider applications. We received over 170 applications and a Sub-committee went through the list of the names and shortlisted them according to the requirement criteria provided for under the Act. The Sub-committee shortlisted the members through a system of scores where for each of the criteria required, we gave five points. The criteria which is provided for under the Act is that the candidate

must have:-

- (i) Academic qualifications or work relevant to the fields of human rights.
- (ii) International and national advocacy in human rights matters.
- (iii) Some training on human rights.
- (iv) Worked with marginalized groups such as the physically challenged and pastoralists.
- (v) Experience working with HIV/AIDS.
- (vi) Experience working with organizations dealing with distressed persons, for example, battered women, torture victims and abused children.

Mr. Deputy Speaker, Sir, the Sub-committee then submitted a list of 12 nominees to the main Committee, and they were all invited for an interview on 12th July, 2006. The Committee went ahead and nominated six candidates as per the provisions of Section 11(6) of the Act, which says:-

"Where a vacancy occurs in the office of a commissioner, the National Assembly shall nominate a sufficient number of persons to fill the vacancies arising and two additional persons and the President shall, within the period of six months, appoint the required number of commissioners to fill the vacancies out of the total number of nominees".

Therefore, the Committee recommends to this House, in conformity with the Act, that the following four nominees be considered for onward transmission to His Excellency the President:-

- (a) Catherine Muyeka Muma - Nyanza Province;
- (b) Wambui Mumucii Kimathi - Central Province;
- (c) Violet Kadhi Mavisi - Western Province, and;
- (d) Hassan Omar Hassan - Coast Province/Youth.

Pursuant to the same Act, the Committee further recommends that the following two nominees also be forwarded to His Excellency the President for consideration.

- (a) Winfred Osimbo Lichuma - Western Province
- (b) Florence Simbili Jaoko - Nyanza Province.

These are the provinces that had vacancies. The other provinces will become vacant next year.

Mr. Deputy Speaker, Sir, while deliberating on these nominations, this Committee was strictly guided by the provision that says:

"In nominating or appointing commissioners, the National Assembly and the President shall have regard to Kenya's ethnic, geographical, cultural, political, social and economic diversity, as well as the principle of gender equity."

Mr. Deputy Speaker, Sir, on behalf of the Members of the Departmental Committee on Administration of Justice and Legal Affairs, I wish to present to this House the Report of the Committee and names of the six qualified persons for consideration and adoption by the House. I urge that this House adopts it, so that we can forward the names to His Excellency the President. Hon. Members should be aware that these vacancies should have been filled in August, 2006. Therefore, the KNCHR has been operating with five Commissioners instead of nine.

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

Mr. Deputy Speaker: Very well! Who is seconding the Motion.

Yes, Mr. Marende!

Mr. Marende: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to second this Motion which is of great national importance. It is worth noting that the KNCHR has been operational since the coming into effect of the Kenya National Commission on Human Rights Act in the year 2002. At the commencement of the Act, Parliament was accorded the opportunity to vet the appointment of the first nine commissioners to serve in the KNCHR. During that time, Parliament, through the Committee on Administration of Justice and Legal Affairs, did approve 12

candidates out of whom His Excellency the President, exercising his authority under the Act, appointed nine commissioners.

Mr. Deputy Speaker, Sir, by the provisions of the Act, in particular, Section 9, the functioning of the KNCHR is such that the commissioners appointed operate on a rotational basis, except the Office of the Chairman of the KNCHR. The other eight commissioners, at the beginning of their term, ballot such that four of them have their term expiring after serving for two years and the other four will then have their term expire at the end of five years. This exercise, therefore, becomes necessary because four of the commissioners had their terms expire. So, the KNCHR is operating under stress. Instead of nine commissioners, the KNCHR now runs with only five commissioners, which is the bare threshold required quorum for the KNCHR to be properly constituted in any of its meetings.

Mr. Deputy Speaker, Sir, this exercise, which is before Parliament now, is of great urgency. I will urge the House to approve the nominations as have been vetted by the Committee on Administration of Justice and Legal Affairs. The committee conducted the vetting exercise completely transparently and in compliance with the provisions of the Act. So, among other things the criteria of ensuring that we have selected the very best that are available in the area of human rights, has been met in all respects. First, they have the necessary academic qualifications. Secondly, they have experience in the area of human rights. It will be in order for the House to approve these names, so that they can be forwarded to His Excellency the President to appoint four, out of six names.

Mr. Deputy Speaker, Sir, it is important to note that the functioning of the KNCHR is underpinned by statutory provisions which confer and vest certain powers and functions in the KNCHR. By the provisions of Section 18 of the Act, it is conceived that the KNCHR will be completely independent. It will not be controlled by any person. Lately, there has been a problem. It is in the public domain that, perhaps there is not so much understanding or agreement between the Chairman of the KNCHR and the Minister for Justice and Constitutional Affairs. Whereas we respect the general oversight role of the Minister on the KNCHR as one of those departments that operate under her Ministry, it is important that she respects the independence of the KNCHR. She should let it execute its mandate freely and independently, as the Act anticipates, so that they can uphold the human rights of all Kenyans. I have so much respect for the Minister, being a professional colleague. It is necessary that she ensures that there is harmony and synergy among all departments that operate under her Ministry. That is what good leadership is all about.

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

(Question proposed)

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Deputy Speaker, Sir, I rise to give the Government's position on this Motion. I will begin by making comments on the remarks just made by my learned colleague on the other side. I assume the remarks are made out of either lack of proper information or misapprehension of the facts of the case.

Mr. Deputy Speaker, Sir, my Ministry and I respect the operational independence of the KNCHR and, indeed, of all other affiliates of the Ministry, like the Kenya Anti-Corruption Commission (KACC). There is also the Electoral Commission of Kenya (ECK), which is not under us, but operation-wise, we deal with the issue of elections. As a lawyer and person who believes in separation of powers, I do personally respect their independence. Ever since I took over the Ministry, and even before then, we have tried to foster understanding between the Ministry, the KNCHR and also the perception of the KNCHR by other agencies of Government, so that it may have free access in performance of its duties.

It is in the public domain that the public relations of the KNCHR has not been up-to-date with other departments. Therefore, it has difficulties accessing information from the police and other Government departments. The simple problem is public relations. My Ministry is committed to assisting the KNCHR in this and helping them build their capacity.

Mr. Deputy Speaker, Sir, however independent an institution is, be it the Judiciary, Parliament, the Electoral Commission of Kenya (ECK) or the Kenya National Commission on Human Rights (KNCHR), it is not free from audit queries. No institution or person is free from financial regulations and audit queries. If this House, and all hon. Members believe in transparency and accountability, we should be the last to try to shield an individual or institution from legitimate audit queries.

The Minister for Justice and Constitutional Affairs, and any other Minister for that matter, does not raise audit queries. They are the preserve of the Controller and Auditor-General. The Controller and Auditor-General's report, which has been laid before this House, raised several queries on the KNCHR. The Departmental Committee on Finance, Trade and Planning is aware of this. There is an Accounting Officer in my Ministry. She is the person who will be called to Parliament to answer these queries. It is incumbent upon her to seek answers from the institution concerned. Therefore, answers were sought from the commission. These answers were not forthcoming. As the matter progressed, assistance was sought from the Kenya Anti-Corruption Commission (KACC), whose mandate is not only to investigate but also to strengthen systems of all public institutions, so that they may act with accountability.

Mr. Deputy Speaker, Sir, it is shocking that the committee of Parliament that liaises with this particular institution would be without such information, either for choosing not to find out or because of being too busy to do so.

Mr. Deputy Speaker, Sir, I am surprised that certain positions can be taken without information. Audit queries are not a Ministerial function. A Minister cannot shield any individual, including another Minister, from audit queries. They have to be answered one way or the other. Therefore, my Ministry will continue to discharge its duties. However, we urge the KNCHR to respond to audit queries. If it does not, the matter will progress. I am aware that the Committee of Parliament that is concerned has already summoned the KNCHR before it to explain itself. The Commission's position was that my Ministry should not question it. It is not my Ministry which is questioning it; it is the Controller and Auditor-General, who is doing so! It is information that my Ministry requires to be able to take a position before a committee of this House. Let us not be quick to comment on matters from a position of ignorance. Let us seek information before we make accusations and---

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

Mr. Deputy Speaker: I do not accept that point of order!

Mr. Marende, you remember when you were saying whatever you were saying, the Minister was listening? Please, listen! Let her finish her contribution! She also allowed you to finish yours.

Madam Minister, please, proceed.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you Mr. Deputy Speaker, Sir. I also could have objected to the mention of my name. Standing Orders demand that a substantive Motion be brought to the House before the conduct of an hon. Member is discussed. However, I was tolerant enough because the matter is in public domain.

Mr. Deputy Speaker, Sir, let us be fair not only to ourselves but also to the public we serve. Pronouncements made from this House are taken seriously by the public. It is, therefore, incumbent upon us to seek facts. All the facts about the perceived issues are available. The matter has nothing to do with my ministerial functions.

Mr. Deputy Speaker, Sir, on the issue of the mandate of the KNHRC, we are aware of this

institution's mandate under Section 16 of the Act. It is true that one can stretch the definition of human rights to include economic rights. I have no dispute with that. However, is the overall mandate of the KNCHR identical to that of KACC or of the Criminal Investigations Department (CID), for example? These two can take a file to the Attorney-General for a decision to prosecute or not. The simple answer to the above question is "no"!

If you look at Section 20 of the same Act, you will see that it mandates the institution to use any public office, officer or investigations agency in the course of its work. The nature of a human rights commission, whether in Kenya or in any other country, is more of a tribunal. It inquires into and redresses human rights. There is a definition of human rights in the Act. I will seek the indulgence of the House to read it. It is as follows:

"The fundamental human rights and freedoms of any individual, protected under the Constitution and any human rights provided for in any international instrument to which Kenya is a signatory".

So, here we are concerned with human rights of individuals.

Mr. Deputy Speaker, Sir, if money has been misused, that will be a breach of the right of a group of individuals called Kenyans. The investigation of this breach would fall under other agencies. There is an overlap in Government agencies.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, under Section 20 of the Act, the KNCHR is told that it can use other agencies for purposes of investigations. This is for the simple reason that those other agencies are more of the nature of a tribunal for gathering evidence and not an investigation agency. If one was to compare the mandate of the KNCHR with that of the KACC under Act No.3 of 2003, the Anti-Corruption and Economic Crimes Act, they would find a world of difference between the functions of the KACC and those of the KNCHR. So, it is my duty as a Minister and a senior lawyer to ask the KNCHR not to make a judgement but to address its mind to the interpretation of its functions. We appreciate that it is new. We also appreciate the work it is doing in raising the bar on public accountability. If we do not encourage it to make more inquiries in order to strengthen itself, we will start on a faulty note and end up with a faulty commission.

Mr. Temporary Deputy Speaker, Sir, I am discharging my duty to encourage a proper inquiry of its functions, so that it can advise itself to concentrate on its core mandate. You can stretch definitions and take over the role of the Controller and Auditor-General and that of the KACC, while you are supposed to redress issues of human rights relating to individuals.

Mr. Temporary Deputy Speaker, Sir, I would want assistance from this House in helping build capacity. This is our national duty, as national leaders. We should build all institutions, including the capacities of Ministries. That is the reason we engage in committees. But, if we think that every time we must engage in an adversarial mode, where you level accusations even with scanty information, then the interaction becomes not so useful, either to ourselves or to the public.

Mr. Temporary Deputy Speaker, Sir, turning back to the core question of the report before the House, I want to start by saying, with reservation, that I support the report. I have reservations because of the manner in which the Act has been crafted. We have asked Parliament to perform a task it is ill-equipped to perform. We have asked Parliament to encroach on the role of making appointments, that is normally performed by the Executive. We are asking a Committee of Parliament to become a human resources firm. It may be that in the entire membership, not a single

one of them will have qualified in human resources management. We are not even giving them the leeway to hire a management consultant firm to assist them in doing the task.

Mr. Temporary Deputy Speaker, Sir, I have mentioned that at an appropriate stage, when I interact with the Committee on Administration of Justice and Legal Affairs, we shall be interacting more on the issue. Parliament is not equipped to do the functions of a human resources firm. Even Ministries of Government, when it reaches a certain level, are obliged to go to the Public Service Commission (PSC), which is the human resources firm of the Government. If we want to be professional, then we should do things professionally. I am, therefore, appealing to this House and to the membership of this Committee to let us engage on this issue, see, while safeguarding the independence of those appointed, what mode of appointment is best to suit, not those of use who are in the Government today, but posterity, so that we may end up with people who are capable of performing their duties.

The qualifications of Commissioners and Chairmen are left very thin. This is left for the interpretation of those doing it. If you are, therefore, not equipped in human resources, even in good faith, you are going to under-perform. One cannot be a jack of all trades. Therefore, as a House, we need to re-look at where we have confused the separation of powers, collectively, by passing these laws. We are a party to this report. We are not disowning it, but we are saying with hindsight that we should re-look at it.

Mr. Temporary Deputy Speaker, Sir, it would be nice if one were to know, and I am not seeking to know now, especially what extensive investigations a Parliamentary Committee is able to do on the background of each of the persons; whether it employs the services of the rest of the agencies that would be able to help. For instance, when you are appointing judges, if a judge has litigation that would embarrass him in the performance of his duties, it would generally be inappropriate. But is a Committee of Parliament equipped to get into these issues? I am just trying to point out several issues that arise. I was trying to look at the ultimate to see the interaction of the Parliamentary Committee, which is the interviewing agency and that of the President, who makes the appointments after Parliament interviews. Can the President, for instance, return the names if he found that they were not suitable?

I am looking at the interplay of two sections here which mandates both the President and Parliament. In nominating or appointing persons as Commissioners, the National Assembly and the President shall have regard to Kenya's ethnic, geographical, cultural, political, social, economical diversity and the principle of gender equity. If both of them are mandated to be mindful of these, then it means that both have a responsibility. I am not proposing that the names will be returned, but I am saying that both the interviewing Committee and His Excellency the President have responsibilities under this Act. I wish to state that the reservations that I have given have nothing to do with particular individuals or reports, but generally speaking, in the way that we have crafted the law.

Mr. Temporary Deputy Speaker, Sir, the other thing that I wish to note, and I had talked about it to one or two hon. Members of this Committee, is that we need to think about the principle of rotation. What does it entail even in a coffee factory? We are told that the directors should retire on rotation, for example, half of them should retire within a period of three years and the others within four years. If you re-appoint all of them, there will be no rotation. They will be getting out almost at the same time. Are we equipped to really deal with the matter if we are not going to be able to even observe the principle of rotation?

Rotation is for continuity. The directors' terms should not all end at the same time. We should ensure that there is an overlap because of the institutional memory. I am just urging us that when we craft laws, we should not give ourselves, as the House, roles which we are ill-equipped to manage. The role need not go to the Ministry because we must also look at the functions of each

department. Even in the Government, it is the Government public relations firm that performs this role. We need to include all these issues.

The Report which has been presented to Parliament is mentioning all the Commissioners and their provinces. Is that all there is to geographical diversity? That is food for thought. I am urging us to seriously consider those issues, not for the purposes of this Report, but for us to see whether there are areas that we need to strengthen when the time comes.

May I end by once again reiterating my commitment and our commitment as a Ministry to ensuring that we facilitate the operations of this very important body. We will facilitate the body to build its capacity and our capacity as a nation to safeguard and enjoy our human rights. We will also facilitate it to educate the public because information is power, so that we are all aware of our human rights.

Finally, we have a collective duty. There are issues where our stand should be totally non-partisan. Whether one is in the Opposition or in the Government, when we go to the nation, issues of human rights transcend all boundaries. We, therefore, must support this Report whole heartedly.

However, subject to the few reservations which go to the general nature of the Act and not to this particular Report, I beg to support.

Mr. Kenyatta: Thank you, Mr. Temporary Deputy Speaker, Sir. I do, indeed, support this Motion. However, I have a few issues that I would like to put forward.

First and foremost, after listening to the Minister, I appreciate that, indeed, she respects the right for our commissions to be independent. Furthermore, I support her when she says that all of us, individually and collectively, are accountable. Even the Kenya National Human Rights Commission is also accountable when it uses public resources. Towards that end, we intend to support the Minister in ensuring that all public funds are utilised in the best interest of the Kenyan people.

However, the key question here is on the independence of these commissions. As she has correctly stated, the human rights issue is not a partisan issue. The issue of human rights should not be addressed from an Opposition or the Government's point of view, but, rather for the interest of the people of this Republic. Indeed, it is because of that, that the manner in which Commissioners are appointed is a very important issue.

The reason why we have separation of powers is for checks and balances. The reason why Parliament, in its wisdom, gave this House the mandate to go through the names of the nominees and ultimately hand them over to the Executive is to ensure that the names that are put forward do not belong to one side, but are truly representative of the people of this Republic. We are increasingly becoming worried by a Government that is seemingly wanting to get a greater and greater say in the role and work of our commissions. Why do I say this? One wonders whether the issue put forward by the Minister about the appointments and who is charged with them is not occasioned by various altercations that we have seen in public, for example, between the Kenya Human Rights Commission and the Ministry. It is clear that the KNCHR has come up with a number of reports that have pointed out misdeeds by Members of the Government and their officials. Those reports have been prepared and made public. However, we are yet to see any action. We are concerned that if the Government continues to try and get an increasing role in the appointment of members of various commissions, we might begin to see the independence of those entities actually eroded.

Mr. Temporary Deputy Speaker, Sir, I say so, because I am concerned about the Electoral Commission of Kenya (ECK). We are all aware that the terms of a good number of commissioners have expired. How is this Government intending to fill those vacancies to ensure independence and fairness? Does it intend, as the previous Government did, to abide by the terms of the Inter-Parties Parliamentary Group (IPPG) agreement as we await a new constitution or is it intending to appoint

arbitrarily? That puts to question a very critical part of our democracy. It puts it at stake. These are not small matters. As the Minister herself has said, there are issues that need to be handled in a bipartisan manner in order for Kenyans to be able to trust the verdict of those commissions. Can you imagine a situation where a commission like ECK is arbitrarily appointed by one side? What reason will Kenyans have to believe that the results or announcements of that commission are a true reflection of the will of Kenyans? If tomorrow we were to dispute those results and say: "Yes, we dispute those results because the commissioners are biased." Are we encouraging and entrenching democracy, or are we eroding the very democracy that we ourselves have sworn to protect? Those are pertinent issues as we approach an election year. They are pertinent issues as we move to consolidate the hard gains of democracy in this Republic. I am proud to stand here and say that after the election of 2002, I conceded defeat on the basis that the elections were run on a free and fair basis. Is that likely to happen if the commission itself is put to question? Will it be possible if, even before we go to the elections, we are challenging one another as to the ability of a commission to run a free and fair election? I am sorry to concentrate on that issue, but it is pertinent. It relates to the issue at hand.

Mr. Temporary Deputy Speaker, Sir, if, indeed, the Minister has said that there are certain critical issues that we need to put partisan interests aside, then that calls for true legitimate dialogue on both sides for consensus to be build up in order for all of us to respect the work of this valuable commissions.

With due respect, Parliament and political parties may not necessarily have the manpower to be able to vet and go through names. This House needs to empower both Parliament and political parties for us to have the manpower to choose the right people. However, despite that fact, the greater reason is not necessarily the lack of skills. The reason why this House takes on certain responsibilities is more than getting the right calibre to ensure that individuals have the trust and the faith of this House and of the Republic as a whole. That role, we cannot erode on the basis that it is only the Government that has the tools to pick the right people. By so doing, we are denying the alternative view an opportunity to pick individuals who could guarantee free, fair and impartiality in the decisions and actions of various commissions.

Mr. Temporary Deputy Speaker, Sir, as I support, I look upon and request the Government, not just with regard to the KHRC only--- We hope we are not going to see names presented and then returned to this Floor by the President. We do hope he will adopt and accept those names. We will try and strengthen our legal committee to ensure that next time, they have the right kind of technical staff to ensure that they pick the right people. We also hope that the President, in his wisdom, will realise why he was an active participant of the IPPG package in 1997 and will abide by those rules until such time as the new constitution is enacted. Hopefully, we will constitutionalize the manner and mode of appointment, not just of commissioners to the KHRC, but also to the ECK and all other such bodies.

With those few remarks, I beg to support.

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, as I rise to support the report of the Committee, I do not seem to have much choice, but to support it. My colleague, the Minister for Justice and Constitutional Affairs has explained the reasons why we should support this Motion. We, as a Parliament, are in a situation where we tied ourselves to a law that seems to tie us down to accept the report as presented by the Committee and to move forward. As I support, I would like to express my disappointment with the performance of the commission todate. We have seen gross departure from the mandate of the commission as envisioned in this House when we set it up to investigate abuses against human rights.

Mr. Temporary Deputy Speaker, Sir, I am aware that there are no human rights abuses to be investigated under the Kibaki Government. There are no more Nyayo House Torture Chambers and

people being detained without trial. People no longer flee this country for fear of violation of their human rights.

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to say that there are no human rights abuses in Kenya when not less than a year ago, people in Kisumu were murdered and nothing has been done? That is a human rights abuse!

The Temporary Deputy Speaker (Mr. M'Mukindia): That is not a point of order, Mr. Sungu!

The Minister for Finance (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, apart from the hooliganism that we see in this country, there are no abuses of human rights by the Government. That does not mean that the Commission that has been set up and is enjoying public financing should, for lack of something to do, start harassing innocent Ministers, hon. Members and citizens, under the guise of looking for work to keep themselves busy and create some relevance. I believe that this House, having passed a law giving the Kenya National Commission on Human Rights (KNCHR) some supernatural powers and making it answerable to nobody, has an obligation to re-look as to whether it created a monster that it cannot question. We will receive a report here and debate it but what can we do with it? I believe that these are some of the lessons we are learning from all those bodies we created, that act under the control of no person, including this House. I am on record as having queried the wisdom of some of the bodies we created. Nobody can ask a question on what the KNCHR is doing, and get a satisfactory answer because not even the Minister for Justice and Constitutional Affairs is aware of what the Commission is doing, since it is supposed to be independent. That is a Commission we created. We are now learning a lesson and we need to correct the situation.

As we look at some of these issues and take this opportunity, I believe it is time to also look at the value being added by the Committees of Parliament. If I were to put myself in the shoes of the Committee Members as they vetted the names of the Members to be appointed to the Commission, I wonder what criteria I would have used in proposing one name and not the other. I am not a human resource consultant. Apart from looking at the political considerations - we have seen names being debated in this House and the main politics that emerge are that the person being discussed does not come from the preferred areas and that some areas are not well represented. This is something which we need to debate, as a Parliament and see if we are best equipped.

What is our role as a Parliament once we have legislated and said what criteria should be used in appointing people? Should it not be the work of the Executive, to deliver in accordance with the law as legislated by Parliament, so that this House can be in a position to raise issues when the Executive does not do its job, in terms of appointing the wrong people or not in accordance with the law? I believe these are lessons we are learning as hon. Members, from both sides of the House. These are issues we will live with. However, we cannot allow the same mistakes to haunt our children in the future.

I follow debates that are initiated by Parliamentary Committees and I believe that they have the same problems, in terms of meandering from their core mandates. They have started looking at issues which are extraneous to their mandates. As we were passing the Licensing Bill, I was very encouraged to hear hon. Muturi say that we pass major legislations. However, the Committee of Parliament that was supposed to look at the Bill had not even given its input. We are seeing Committees meandering. We saw the Public Accounts Committee (PAC) purporting to be a court of law and going all the way to London to receive information from Githongo. The Committee brought us information here on Anglo Leasing. We debated it and the Committee came up with a report on all the 18 contracts, as given by the Controller and Audit-General, as per the law. Up to today, I have not seen a report coming to this House because it is not politically fit to do so.

We saw the Parliamentary Committee on Finance, Planning and Trade, purporting to be a

court of law, deciding on the fate of Charterhouse Bank and asking me to reopen the bank, a matter that is before the courts. We saw the same Committee go for meetings and saying that, in fact, it was misled by the Minister, and so it came up with a different report. Where is the credibility and integrity of our Committees in this House? These are issues we need to internalise and discuss because soon, this House will become irrelevant. Committees will become irrelevant when they become floors for people to lobby for issues.

When I look at the issues of the Electoral Commission of Kenya, I am disappointed to hear the Leader of the Official Opposition asking the Government to do things which are not consistent with the Constitution. The Constitution is very clear, in terms of the appointment of Commissioners. I am aware that there were agreements within the IPPG. However, I would have expected the Leader of the Official Opposition, if he was keen on seeing the policies being followed, to bring a Motion to this House so as to internalise the agreements within the law. Those were agreements that were forced on Kenyans because of the circumstances they were in, and because people did not respect the law. So, the issue was done in a paralegal way. I am disappointed to hear that four years after seeing the record of respect for law, we still doubt the Kibaki Government. I would like to assure the hon. Member that when the time comes for reappointment, the law will be followed to the letter.

I also heard the hon. Member remind us of an issue he constantly reminds us about; that he accepted defeat during the 2002 general election. What choice was there after such a resounding defeat? The issue we are talking about is one of common general principle. Once you are defeated, you have to accept defeat. When we were defeated during the referendum, we accepted defeat, despite all the machinations that were there and the misinformation that was given to people. However, that should not be a constant reminder of what happened then or did not happen. It is important for us to start thinking, as a Parliament, on how to have an institution that has respect. The institution of Parliament should have respect for the institution of the Presidency. I am disappointed at the constant reference and the doubts that are being casted on the Presidency as an institution, especially, as we are all aspiring to be presidents one day. Why are we aspiring to be presidents if we cannot respect the current President? We should not be in this House casting doubts and saying that the President appoints his own friends. That should not be happening. The true record of the Kibaki Government has demonstrated that there are more resources going to areas that never supported the President than those that supported him. That is what statesmanship is all about. We are coming from a regime where areas which did not support the President were denied resources.

Mr. Temporary Deputy Speaker, Sir, we are moving forward and I think we need to learn from past mistakes and look into the future rather working from a point of suspicion. We should not tie the institution of Parliament to appointments on the strength of suspicion for the President. We must remember that the President is elected by the people. We are also elected by the people from specific constituencies. When we come here, our mandate is very clear; to come and legislate, and create the framework for the other institutions to operate. Our mandate is not to come and start taking over the job of the Executive or the Judiciary as we are now purporting to do by making ourselves recruitment agents or paralegal courts to start making judgements on when banks should be opened or closed. That way, we are getting into the realm of the other arms of the Government.

Mr. Temporary Deputy Speaker, Sir, I could go on and on, but in the interest of time and other Members contributing, with reservations, I beg to support.

Mr. Weya: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say one or two things in support of this Motion. I do not think the Government is very honest in the way they are bringing up this issue. This is a Government-sponsored Motion and I thought they were advised by the Attorney-General on how to go about it. But the Government

has now developed cold feet and is claiming that the Kenya National Commission on Human Rights (KNCHR) is operating outside its mandate. The mandate of KNCHR is very clear. It is to investigate on their own initiative or upon complaints by any person on the violations of human rights.

Mr. Temporary Deputy Speaker, Sir, when the Government bought vehicles for as much as Kshs18 million, the KNCHR pointed out this anomaly to the general public. Why would somebody in the rural areas lack drinking water or medicine when one Minister is driving a Range Rover worth Kshs18 million? Is that fair? When the law says that a Minister should not drive a vehicle exceeding so many "CCs", yet they are buying vehicles above 4,000 or 8,000 ccs which are guzzling a lot of fuel bought by resources provided by the general public who are struggling out there to pay taxes to this Government to go and misuse! That, in my opinion, is a human rights violation.

Mr. Temporary Deputy Speaker, Sir, I will go further and say that the Parliament of Kenya does not operate in isolation. Many parliaments all over the world approve the appointment of judges or other commissioners appointed by the President. In this country, we even have a parastatal head who is a bishop but has no clue about aviation. The only qualification he has is that he supported the President during his campaigns and he is a close ally of the Head of State. This is what we are trying to avoid. We want a country where every citizen is given equal opportunity. We do not want to have an elite society where you choose your cronies when you get to power. Where does the poor young man or woman who has struggled through a gruelling education system all the way to the university go? Just because they are not "connected" to the elite, they will not get an opportunity to be a managing director of a company! That is the fundamental issue that we are discussing here. We are discussing issues of accountability.

Mr. Temporary Deputy Speaker, Sir, the KNCHR even pointed out politicians who were using abusive language during the referendum campaigns. This is the kind of language that could make Kenyans to fight each other. When they pointed out that issue, the Government said that is not their mandate, yet if they did not point it out, they would have been accused of not doing their job. There has been war between the KNCHR and the Government because of pointing out wrongs within the Government. Because of that, the Government has now taken it upon itself to try and frustrate the KNCHR. That is why, instead of investigating Anglo Leasing type contracts, they are running to the KNCHR claiming they have stolen may be Kshs1 million or Kshs2 million. Where are the Government's priorities; investigating Anglo Leasing or running around after little money? They are looking for the small fish. Granted, there may be some misappropriation of funds at the KNCHR, but they have to come up with facts, instead of saying that because they point out mistakes in Government, let us send the KACC to investigate the Commission to slow them down.

The Temporary Deputy Speaker (Mr. M'Mukindia): Just a moment, Mr. Weya. We only have 15 minutes to discuss this issue because at 5.30 p.m. there is a Motion for Adjournment. So, make it short.

The Assistant Minister for Labour and Human Resource Development (Ms. Mwau): On a point of order, Mr. Temporary Deputy Speaker, Sir. Since we all support this Motion, would I be in order to ask that the Mover be now called upon to reply?

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Ms. Mwau. We have a few more minutes.

Proceed, Mr. Weya.

Mr. Weya: Mr. Temporary Deputy Speaker, Sir, I think I have made my point and I would like to give other hon. Members an opportunity to contribute.

With those remarks, I beg to support.

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this

opportunity to say a few things on this Motion. I am surprised, listening to some of the Members who I know took such an active part in the debate that led to the enactment of the Act that created this Commission, and more particularly, the Minister for Justice and Constitutional Affairs. But, be that as it may, we know things change and at that time, people were on different sides of the House.

Mr. Temporary Deputy Speaker, Sir, on a more serious note, the Act clearly says: "Minister means the Attorney-General and Ministry shall be construed accordingly." So, even as much as we may want to say that through some executive fiat, administrative arrangements could have been made from within Government, the Minister referred to in the Act, to whom the Commission should be reporting to is the Attorney-General, and not the Minister for Justice and Constitutional Affairs. So, when I saw recently the Minister for Justice and Constitutional Affairs engage in some altercations with the Commissioners, I really got surprised. I think it is important that we operate within the law.

Mr. Temporary Deputy Speaker, Sir, we have heard Members say here that the President will appoint Commissioners of the Electoral Commission of Kenya in accordance with the Constitution. This Constitution is for this country; it is for us. The practice the world over in the appointment of Commissioners of Electoral Commission is that the Executive must consult all shades of political opinion that are represented. We will not allow any deviation from that fact, whether the Constitution says this or the other.

Mr. Temporary Deputy Speaker, Sir, I am giving this very free gratuitous advice to the Government. It will be the height of hypocrisy that commissioners to the Electoral Commission of Kenya (ECK) or any other Commission could be appointed without due regard to such other shades of opinions as exists in this country. In fact, it would be a recipe to chaos. What we are hearing today is a prelude. We are being forewarned that: "Actually, people are about to be appointed without consulting the rest of you. The rest of you can go and hang or cry!" I think that is the message Kenyans are being given out there. It is only fair that now I warn Kenyans to be on the look out because we are about to witness one of the most atrocious things being done to them.

The Temporary Deputy Speaker (Mr. M'Mukindia): I will have to cut you short, Mr. Muturi!

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, let me just say something on the issue of human rights. Human rights, as defined in the Act, means fundamental rights and freedoms of any individual protected under the Constitution. We have a whole Chapter on this matter. Chapter 5 of this Constitution deals with the fundamental freedoms and rights of individuals. Therefore, it is not fair for us to sit here and start castigating the Kenya National Commission on Human Rights (KNCHR) for doing its work. We may not agree but, please, it is fair that we should take what they have given us, go through it, see where we can make amends and propose them. It is also not fair for us to start criticizing Committees of this House. The Departmental Committee on Administration of Justice and Legal Affairs has gone out there---

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Mr. Muturi! You are out of order!

Mr. Muturi: I am sorry, Mr. Temporary Deputy Speaker, Sir. Thank you!

The Temporary Deputy Speaker (Mr. M'Mukindia): I will now call upon the Mover to reply.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I see that all hon. Members are supporting this Motion. However, some issues have been raised and I would like to donate the rest of time to the Chairperson of the Departmental Committee on Administration of Justice and Legal Affairs to respond.

The Temporary Deputy Speaker (Mr. M'Mukindia): Very well! That is okay!

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir. If there is one respect in

which power has in the past been abused in this country it is through the sole prerogative of the President to make important appointments. If we are going to have a balance, that is a power that needs to be shared between the institution of the presidency and this august House.

(Applause)

I have seen the manner in which the Departmental Committee on Administration of Justice and Legal Affairs has gone about interviewing people. I am sure Ms. Ndung'u did this. We do it in a very transparent manner. The Committee travelled all the way to the United States of America to see how the Senate does it. It works marvellously! So, despite difficulties, this important public office is an area we must expand. I agree entirely with the Leader of the Official Opposition that commissioners to the ECK should be vetted and appointed through this House. The President should share that power with this House.

(Applause)

Mr. Temporary Deputy Speaker, Sir, after receiving applications from the people, we appointed a sub-committee which did the shortlisting after going through all the curriculum vitae (CVs). We then took into account regional diversity of this country. When you go through those nine commissioners, they represent each province. This is the sort of thing we want to see even with the ECK. We want to expand that so that even for the Commissioner of Police, let the President bring a name here, we go through the CV and see the experience. When we reject it, he can bring another name. If we do it that way, we will get it right and we will be helping this nation. I thank the hon. Members who supported this Committee. I assure the Minister for Justice and Constitutional Affairs that the Committee operated in a very transparent way.

I appeal, through you, Mr. Temporary Deputy Speaker, Sir, because we are now being accused, as a Committee, because we rejected the nominee of the International Federation of Women Lawyers (FIDA) to the Advisory Board purely on the basis of her qualification and track record. The decision of the Committee was unanimous. The FIDA was asked to bring people with more relevant experience. They submitted two names. However, I do not know why the Ministry of Justice and Constitutional Affairs has not brought those names here and to the Committee for vetting. This thing should be done with speed. I want to assure the Minister, through you, that we want to work and co-operate with the Ministry. However, we are a Committee of this House. Our primary duty is to this House and to the Kenyan people.

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

(Applause)

The Temporary Deputy Speaker (Mr. M'Mukindia): Ms. Ndung'u, you still have two minutes, if you wish to make some comments.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I am satisfied with hon. Members from both sides of the House who supported the Motion.

With those few remarks, I beg to move.

(Question put and agreed to)

**MOTION FOR THE ADJOURNMENT
UNDER STANDING ORDER NO.20**

STRIKE CRISIS IN PUBLIC UNIVERSITIES

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I beg to move:- THAT, given the on-going crisis in the national universities; noting the contradictory statements given by the Government in Parliament and at various Press briefings; realising that there is an urgent need to promote dialogue that will help solve the crisis within the bounds of law; and, in the interest of the public good, this House doth now adjourn to discuss this crisis at the public universities, occasioned by the strike of the University Academic Staff Union (UASU) as a matter of national importance in accordance to Standing No.20.

Mr. Temporary Deputy Speaker, Sir, I will give a brief background to this crisis. However, this crisis affects the University of Nairobi (UoN), Kenyatta University, Jomo Kenyatta University of Agriculture and Technology (JKUAT), Egerton University, Moi University and Maseno University.

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) left the Chair]*

*[The Temporary Deputy Speaker
(Mr. Poghisio) took the Chair]*

The parties involved in this crisis are the Government of Kenya, in particular the Ministry of Education, UASU which has a membership of 3,500 members, the university councils of the various public universities, the Inter-Public Universities Councils Consultative Forum and the Central Organisation of Trade Unions (COTU), which as an umbrella organisations of trade unions, has an interest in this matter.

Mr. Temporary Deputy Speaker, Sir, the genesis of this problem rests in the history of the public university system in this country. In the 1960s and 1970s, the conditions of service---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Professor! I think we need to do this right. We need to ask the Minister for Education to move the Motion of Adjournment. Then we will allow Prof. Anyang'-Nyong'o to proceed.

Mr. Assistant Minister, I hope you came prepared for this Motion of Adjournment!

The Assistant Minister for Education (Dr. Mwiria): Yes, I am prepared.

The Temporary Deputy Speaker (Mr. Poghisio): Actually, only Ministers can do this kind of Motion; either the Leader of Government Business usually or the Minister in that Ministry does it.

(Several hon. Members consulted loudly)

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is a matter of procedure. The Assistant Minister has to move the Motion, that the House do now adjourn. That is all he needs to do to allow Prof. Anyang'-Nyong'o to proceed.

The Temporary Deputy Speaker (Mr. Poghisio): In fact, the Assistant Minister's role is just to open the window to make it possible for Prof. Anyang'-Nyong'o to move on.

Proceed, Dr. Mwiria!

The Assistant Minister for Education (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House do now adjourn.

The Assistant Minister for Agriculture (Mr. Kembi-Gitura) seconded.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, the problem of lecturers has got a historical background. In the 1960s and 1970s, the terms and conditions of service at the university were reasonable---

The Temporary Deputy Speaker (Mr. Poghio): Order, Prof. Anyang'-Nyong'o! It is not my intention to interrupt you. However, it is important that hon. Members know that we are trying to follow procedure. The Motion of Adjournment has a procedure that is followed, so that the hon. Member who wants to raise a matter can proceed and do so. The Minister simply does a procedural thing of moving the Motion. That is why I was asking if the Assistant Minister was prepared for it. This is something that all Ministers need to be advised on, if not prepared for.

Proceed, Prof. Anyang'-Nyong'o!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I was saying that the current crisis at the public universities has a long historical background. In the 1960s and 1970s, the terms and conditions of service of the University of Nairobi, which was then the only public university, were very competitive in the region, in Africa and internationally. However, after the 1970s and 1980s, the terms and conditions of service did not improve with the change of time. This means that they became increasingly non-competitive. However, more importantly, the 1970s and 1980s, were the years of political repression which drove a lot of university dons out of the university to seek refuge elsewhere. As such the university was greatly depleted of lecturers, professors and assistant professors. There was a decline in teaching, research and in the standard of education. However, at that point in time, the number of students going to university increased tremendously, which necessitated the establishment of more public universities in this country. This was commendable. So, while we had one public university in the 1970s, we now have six public universities with many students. We need to have more universities.

If we will have more students in the universities, we must train more academic staff, reward them well and keep them in our universities on competitive terms and conditions of service. However, precisely because these conditions have been going down, those who have money take their children abroad for higher education rather than let them school here. It has been estimated that this country spends between Kshs20 billion to Kshs30 billion annually paying school fees abroad for purely higher education. In Uganda alone, we are spending close to Kshs2.8 billion educating our children. This means that we are depriving our economy of this money which would go a long way to help in development, not just of our universities, but of our economy as a whole. So, if we do not improve the conditions of service of our university lecturers by paying them more money, we are in actual fact being penny wise and pound foolish.

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of hon. Members of Parliament consulting so loudly to give me time to speak on this very important matter because it affects their children and this nation.

Mr. Temporary Deputy Speaker, Sir, what are the lecturers demanding? The lecturers are saying that rather than subsidize their wages moonlighting in private universities in this country and rendering their services in the private sector education, the Government should pay them good wages so that they can concentrate on teaching in public universities. At the moment, many lecturers moonlight at Daystar University and the United States International University (USIU) and other private universities which pay more competitive salaries than the public universities. The best thing the Government can do is look at the domestic market and make sure that the conditions of service and salaries in public universities are competitive with those in the private universities.

It is important that we also understand that the private sector, parastatals and private research institutions in this country, pay much better than public universities. A university don may as well work at the Kenya Institute of Public Policy Research and Analysis (KIPPRA) under the Ministry of Planning and National Development than teach at a university. Somebody working at the KIPPRA would rather leave that organisation and work for the Kenya Anti-Corruption Commission (KACC) than stay in KIPPRA. As of now, the KIPPRA, which I really tried to develop when I was the Minister for Planning and National Development, is losing researchers to the KACC. If an officer is earning about Kshs150,000 in KIPPRA, if he or she goes to the KACC, his or her salary will be anything between Kshs500,000 and Kshs1million. Therefore, the salary structure in the public sector, the universities and other research institutions in this country must be looked at very carefully, if we will have stability of those who work there to render their services for national development in this country.

Mr. Temporary Deputy Speaker, Sir, what are the lecturers asking for? In a letter dated---

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, am I talking or is somebody else addressing this House? Could you protect me? I cannot hear myself because of loud consultations in this House.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Let us listen to the hon. Member.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, in a letter dated 31st July, 2006 and addressed to the chair of the negotiating committee, the University Academic Staff Union (UASU) gave a detailed proposal on salaries, allowances and other benefits in view of the prevailing cost of living. These figures were no doubt rather high. However, they were put on the table for purposes of negotiation. Therefore, I will table this document in the National Assembly, so that hon. Members of Parliament, particularly the relevant Departmental Committee can look at it as an objective evidence of the negotiating process that the university dons have been pleading for.

Mr. Temporary Deputy Speaker, Sir, secondly, the Vice-Chancellors' committee in May, 2001, recommended salaries and allowances for dons, which gave a professor a top salary of Kshs375,000 minus allowances. A tutorial fellow had been given a top salary of Kshs201,000 minus allowances. Again, I will submit this as document No.2 for the perusal of this House to see the objective facts that have been put on the table both by the vice-chancellors and the dons for the Government to consider in considering the salaries, allowances and terms of service.

These figures compared rather poorly to the basic salary and allowances given to university administration staff. The basic salary of a vice-chancellor is Kshs460,000 and when we add allowances, this totals to over Kshs1 million. Therefore, if you add the basic salary of a vice-chancellor with other allowances, the total sum comes to about Kshs1 million.

Mr. Kagwima: On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not intend to interrupt my good friend, but he is submitting papers, which he is not laying on the Table. I would like to look at those papers he is submitting. I do not know if he is giving them to the Minister. Where is he submitting them?

Mr. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, these papers are many. I will table them later. They are with me and I will lay them on the Table when I finish my contribution. I cannot walk to the Table and talk to the microphone at the same time. It is basic common sense!

Mr. Temporary Deputy Speaker, Sir, Mr. Sungu can table them for me.

(Mr. Sungu laid the documents)

on the Table)

The Temporary Deputy Speaker (Mr. Poghisio): What kind of papers have you laid on the Table of the House?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy, Speaker, Sir, if, indeed, you were listening, you would know what kind of papers they are.

The Temporary Deputy Speaker (Mr. Poghisio): By the way, not just any papers---

Prof. Anyang'-Nyong'o: They are not just any papers!

The Temporary Deputy Speaker (Mr. Poghisio): Fine, but are they---

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, they are public documents.

The basic salary of a principal of a college is Kshs252,000 and when you add the allowances it comes to Kshs652,000. If you go to the administrative side of the universities, you will be okay. If you remain teaching in the classroom, you earn much less. We must think of competitiveness when we are talking about university salaries.

The other document I want to lay on the Table is a study that was done by the Kenya Institute of Public Policy Research and Analysis (KIPPRA) when I was a Minister. It gives the Government plenty of evidence and information on how to deal with salaries for university lecturers, allowances and so on especially with regard to addressing the issue of competitiveness.

Competitiveness must be looked at as domestic competitiveness regarding other comparable institutions in the economy; regional competitiveness regarding other universities in the region; and international competitiveness. Again, that document was very well prepared and submitted to the Government on an objective ground on which they could make their decisions in improving the terms of service of university lecturers.

When I was a Minister, in conjunction with Jomo Kenyatta University of Agriculture and Technology (JKUAT), I instituted a project called the "Brain Gain Project" which was meant to address this issue and see how we could begin gaining the brains that we have lost to other universities as a result of our being non-competitive. It is, therefore, important that if we really need to retain our academic staff, then we should reward them objectively given the issue of competitiveness. This is a very important economic concept that you cannot run away from if you are engaged in an open market economy. Now, what is the cause of the current standoff?

Mr. Temporary Deputy Speaker, Sir, the cause of the current standoff, I think, is just a lack of negotiation skills on the part of the Government.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Anyang'-Nyong'o. I still need to understand the purpose of these documents you have laid on the Table. What is your purpose of laying these documents on the Table of the House?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I lay those documents on the Table as documents from UASU and also from the Government itself. I just produced the document from KIPPRA which could help this House discuss the crisis facing our public universities. The document from KIPPRA, for example, is a public document. So, this is just a copy which I had photocopied to bring to this House. So, if you doubt the authenticity of the document, you only need to go to KIPPRA and you will get it there. I am being very objective here.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Anyang'-Nyong'o! It is not a matter of doubting the documents. I only need to know how they are going to help in the debate.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I cannot read them because they are bulky. So, it is better to lay them on the Table of the House so that one can refer to them later. The documents actually support the argument I am raising here.

The Temporary Deputy Speaker (Mr. Poghisio): To help the Minister and---

Prof. Anyang'-Nyong'o: To help the Minister and all of us. Even you, Mr. Temporary

Deputy Speaker, Sir, if you want to read the document, it is available.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Anyang'-Nyong'o! I think these are negotiation documents. Now, one of the documents---

Prof. Anyang'-Nyong'o: Okay, you can ignore them, Mr. Temporary Deputy Speaker, Sir, but allow me to make my point.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Anyang'-Nyong'o! Whether you proceed or not, it is going to depend on how we communicate. You cannot lay documents on the Table of the House and then afterwards tell the House to ignore them.

Prof. Anyang'-Nyong'o: No, because, Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Anyang'-Nyong'o!

Prof. Anyang'-Nyong'o: Let me continue, Mr. Temporary Deputy Speaker, Sir. What is problematic here is the part of negotiation. If I could read from *The Standard* Newspaper of 30th October, 2006, where the Minister for Education says that:

"We support the Vice-Chancellors' move of dismissing lecturers. There are so many unemployed qualified Kenyans willing to work."

I do not think that this is a good posture for negotiation because a strike is an acceptable democratic weapon for workers when they are negotiating. When workers strike, what you should do is to bring them to the negotiation table, put your points across and help the process move forward. We have institutions in this country which can help negotiations. The Minister himself appointed a negotiation team and he also knows that there is an inter-university council which can help in negotiations. Striking off the names of university lecturers from the payroll simply because they are on strike when at the same time Kenyatta University was reinstating those who were on strike means that the left hand does not know what the right hand is doing.

I would like to appeal to this House that the Departmental Committee on Education, Research and Technology and the one on Administration of Justice and Legal Affairs should look at this matter together with the Ministry of Education to help us move forward. We cannot afford a strike for so many days in our public universities.

The Temporary Deputy Speaker (Mr. Poghisio): Before, Ms. Karua takes the Floor, could we, please, talk about the time allotted to each person?

Hon. Members: Five minutes!

The Temporary Deputy Speaker (Mr. Poghisio): So, we all agree that it is five minutes for every speaker.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Temporary Deputy Speaker, Sir. The matter at hand is of national importance because it is about the learning of our university students. However, I would also like to warn against political opportunism and the culture of political vultures who scavenge on every national misfortune or impact to make political capital.

Mr. Temporary Deputy Speaker, Sir, we all have a duty to collectively try and resolve issues. We know that for a long while we have neglected, as a nation, to address serious issues. There are issues concerning salaries, not only for university lecturers, but also for the civil servants which this Government, from 2003, has tried the best it can to address.

I am aware that---

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the hon. Minister say that there are "political vultures" in the House. I would like her, if it is in order, to name those "vultures" because we are concerned. I am not a vulture myself!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, I did not talk of people in the House and the HANSARD can surely bear me witness. If they are in the House, let them show themselves to us. I talked about the culture of

political vultures which scavenge on every national disaster or impact to make political capital. I am just warning against such a culture without ascribing blame to anyone. We have a national duty to resolve issues.

The Temporary Deputy Speaker (Poghisio): Order, Ms. Karua! I did not hear the part where Mr. Sungu alleges that she said, "in the House". However, the HANSARD will bear us out if that part is there. I did not hear that part.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Temporary Deputy Speaker, Sir, also protect me from the deliberate misleading accusations from the bespectacled hon. Member who is my friend.

(Laughter)

(Mr. Sungu stood up in his place)

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Sungu!

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, for protecting me, Mr. Temporary Deputy Speaker, Sir. This Government has tried its best to address these issues and that is why there was a negotiation mechanism. The questions we need to ask ourselves, whether it is that side that was seated on the right side of the House or not, is it possible to give a 600 per cent pay rise? Let nobody incite any side of the negotiating parties to things that are impossible.

As a nation, we have to redress the things we have neglected for years simultaneously and see how to balance them. Any leader who is arguing differently and making it appear like we are ignoring one sector and only looking at the other, is committing, in my view, an act of irresponsibility. We, therefore, urge that the negotiating side and the employer come to a solution. I am given to understand that the employer of the lecturers is indeed not the Government but the University Councils. I urge that dialogue be encouraged between the two parties to ensure that we reach a solution and our children go back to school.

Mr. Temporary Deputy Speaker, Sir, I want to ask my colleague, the Acting Minister for Education that we scrutinise the income and expenditure of public institutions. We know a lot of money is being generated through the parallel degree programmes. Is there a way we can better utilise the money to facilitate better terms and conditions? These are the questions we shall have to raise together.

Also to the striking lecturers: Can we be also upfront because both parties have to look at themselves? Are the salaries you say you earn, all that you earn or is there extra money from the parallel degree modules? What about the house allowance? I want to encourage the Minister, when he rises to respond to this Motion, to bear the salaries inclusive of the house allowances so that they are known to Kenyans the same way the salaries of hon. Members of Parliament are known and, therefore, Kenyans will be able to judge whether what is being asked is reasonable or not.

Mr. Temporary Deputy Speaker, Sir, finally, we urge for level headedness in approach to the negotiations remembering that we are all Kenyans and we must approach issues of national importance with national interests at heart. Most finally, let none of us want to be an opportunist or a "scavenger" on a difficult national scene.

I beg to support.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, I would like to say something about the documents that I have here and I can see some of them are tabled for purposes of comparing the offers. These are basically offers from the Vice-Chancellors' Committee and UASU negotiating party. Those hon. Members who may want to refer to them for purposes of

understanding, I can table them. The others are basically documents which are not addressed to anybody.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Those are public documents which are very useful for the Acting Minister for Education over there.

The Temporary Deputy Speaker (Mr. Poghiso): Order! Sometimes you take over the ruling from the Chair and that is very much out of order. I am saying that when documents are admissible here, if they are public documents, I am sure the Minister has several copies of the same on his desk. I am sure he also has this one which has information on UASU. So, these figures are currently admissible to anyone who wants to refer to them especially if the Minister wants to look at them and compare so that we can see if that is the true position.

Mr. ole Ntimama: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity. In fact, I want us to realise that this is not a simple matter. This is not just an ordinary matter that we are handling here when nearly all our dons and lecturers are not teaching and our children who are students are being sent home from their universities. It is not a simple matter and with all the due respect to hon. Ms. Karua, and she knows I danced whenever she was elected to whichever side of the House, I have always had a lot of respect for her. Mum, it is not political. I want to say that this has nothing to do with politics when we talk about it. It is a serious matter which affects this nation and our children.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the higher education in this country has been through turbulence all the time, whether it is the students striking or problems at the universities of probably not having the facilities or sufficient food. Now, it is the dons. Mr. Temporary Deputy Speaker, Sir, this is a very serious matter because, as Prof. Anyang'-Nyong'o said, lecturers in private universities earn much more than their counterparts in public universities. So, is it not their right to strike and say: "We have attained the same education level with our counterparts in private universities. We do the same job. Why do you not pay us enough money?"

Ms. Karua said that this is the job of the universities. Public universities are parastatals. However, if you compare the salaries paid to our university dons with what is paid to parastatal chiefs in this country, you will realise that our university dons are grossly under-paid. Therefore, we must accept the fact that this is a case of under-payment of people who are supposed to be properly remunerated, so that they can teach our children.

Mr. Temporary Deputy Speaker, Sir, the issue of the Government not having money should not arise. This country has lost billions of shillings through corruption and outright theft. Why do we not find some money immediately, to quieten this situation? Leaving this matter to go on like this is not good. If we go on preaching to the university academic staff from pulpit of bullying and arrogance, we will ruin this country. These are not ordinary boys. They are dons and lecturers in our universities. In many respects, they could give us trouble. Therefore, I would like to appeal to the Ministry of Education to negotiate with those people. They are not rebels. They are our sons and daughters who want to help our children and stabilise higher education in this country.

Mr. Temporary Deputy Speaker, Sir, I am told that the Vice-Chancellor of Nairobi University has issued many bitter threats to the institution's academic staff, probably, under the cover of a tribal baron. These are things that are spreading all over the country. So, could we now call upon the Ministry to negotiate with the university academic staff? Dialogue and consensus are important.

The Ministry should not let this strike to continue. This is not a joke. If the Government

does not act appropriately, it will put this country into total chaos. As the strike continues, the students will continue missing classes. The impact of this scenario on the students, particularly from their parents and the international community, will be big.

Mr. Temporary Deputy Speaker, Sir, we must, therefore, compel the Government to dialogue with the University Academic Staff Union. The Government must be responsible. We should appreciate that these are our own people and try to serve them reasonably. Definitely, if the Government gives the lecturers something reasonable, the lecturers will accept it. Therefore, the Government should not just sit back and say: "Whatever they do, *ni shauri yao. Wakitaka kwenda nyumbani, waende!*" That is not right.

With those remarks, I beg to support.

Mr. Kagwima: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I want to, from the outset, say that I sympathise with the situation in our public universities.

We need to address this matter in a very sober manner, not only for this time but for the future of our institutions of higher learning. We need to, clearly, determine the terms and conditions of service for staff in those institutions, so that as one applies for the job of a lecturer, one knows one's monthly salary and allowances entitlement. That way, somebody will be able to take up the job under clear terms and conditions of service.

Mr. Temporary Deputy Speaker, Sir, I would like to agree with the Minister for Justice and Constitutional Affairs that we should look at the income generated by our public universities. For instance, the University of Nairobi has established a private company, which generates money through various academic programmes that the institution offers to the public under the parallel degree programme. What happens to that money?

I know that in order for one to become a lecturer, a lot of effort is required, so that one can acquire two or three degrees. However, it is not possible for the Government to compensate professors in terms of remuneration. What I mean is that lecturing at university is actually a calling of an individual to produce academic manpower for one's country. As much as they want good terms, lecturers must have a calling the way priests and other people have a calling before they join their careers. So, I want to appeal to them to look at it that way so that if they have a calling, they can produce academic manpower for the country.

Mr. Temporary Deputy Speaker, Sir, in the past, lecturers continued to work and drove Volkswagens. I am not saying that we should condemn them to that kind of life, but we need a calling so that we can have committed lecturers who can do research, give proper tuition and learning materials to the students. We need lecturers who will concentrate on their calling. If lecturers are just looking for money, they will just lecture up to the scheduled lecture time and then go out in the field to do other jobs. So, in the morning, they will go to the university to give just the bare minimum that they can give in the 30 or 40 minutes lesson.

Mr. Temporary Deputy Speaker, Sir, let me now turn to the issue of politics in our institutions of higher learning. We need to divorce politics from our institutions of higher learning so that lectures can be conducted in a good atmosphere. I say this because these institutions are very important because they determine what kind of human resource we will have as a country in the years to come. If we are not careful, we will end up with half-baked graduates or personnel which will ruin our economy. Therefore, as a country, we will be doing things half-way. Looking at the way we introduced the 8-4-4 system of education--- I am happy that it is now improving. There are groups of people who lack concentration in some areas. So, we want to be very careful about the type of people we produce.

Mr. Temporary Deputy Speaker, Sir, because my time is running out, I want to conclude by saying that we also need to improve the conditions for the students in the universities. Parents, who

have students in our public universities, would like their children to be day scholars because of the deplorable conditions there. I hope that the Minister is taking note of this so that those conditions are improved for our children to learn in a good environment.

Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to support.

The Temporary Deputy Speaker (Mr. Poghio): Do we have the Official Opposition spokesperson on this matter?

Maj. Madoka: Thank you, Mr. Temporary Deputy Speaker, Sir. Clearly, the lecturers are grossly underpaid. In fact, I weep for them. When I look at the conditions under which the university lecturers live, it is really deplorable. The issue here is not how much they are demanding, but what methods or how the Government is getting involved in trying to solve this particular issue.

Mr. Temporary Deputy Speaker, Sir, I know that the University Academic Staff Union (UASU) gave the necessary notice, which it is supposed to give the Government, for it to get involved so that the university councils can sit down with the UASU officials so as to arrive at some sort of a conclusion. I know that in the hearts of these university lecturers, they are not expecting a 600 per cent increment. In negotiations, that is always the beginning point. What has worried Kenyans is the attitude adopted by the Government. It is constantly warning and threatening the lecturers. That is not the way to go about negotiations. The Government has got to be more serious. It has to listen to them and discuss with them the problems they are encountering. I had hoped that the Minister for Education would not have come in, so that we could hear how the Assistant Minister, who was a strong UASU member, was going to respond, because he knows how university lecturers suffer. What Kenyans are really interested in is the Government getting properly involved. It should discuss these issues of the lecturers seriously. It should also stop issuing threats.

Mr. Temporary Deputy Speaker, Sir, that is all I wanted to say. I beg to support.

The Minister for Finance (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir. I share the concern in terms of the issue at hand, especially considering the fact that about 50,000 of our children who represent the future of this country, cannot get access to education because of the strike. We also need to ask ourselves as leaders, what is our perception of responsibility for the future. These students represent the future of this country. Even as we sit here, we need also to look at the mutual responsibilities as leaders and lecturers. Do we want trade unionism? Do we want people to abandon the future of our children or can we sit down and discuss in a manner that will ensure that our children secure their future? It will be unfortunate for us to sacrifice the future of a whole generation because of people pulling and pushing, instead of sitting down and discussing.

Mr. Temporary Deputy Speaker, Sir, I do appreciate the lecturers. I am a product of the Kenyan education system. A number of them did teach me. I did not have to go out of the country to seek education, because I was proud to be a Kenyan. I know they are intelligent. Most of them are doing their job because they believe in the calling for being a lecturer. They are not doing it for the money. However, I am also aware that there has been a lot of political machination and incitement in terms of getting the lecturers to strike, to portray a different image and create a ground's well of political activity with the students joining in.

As leaders, let us not sacrifice the future of our children in any way. Let us not draw the university students into our political activities. When we look at all the figures in 2003/2004, I believe our lecturers are being compensated fairly. When I say fairly, I am looking at a comparison between what we are paying our lecturers and what those in the United Kingdom and New Zealand are paid, compared with the purchasing power parity between different currencies. I believe that we are paying our lecturers well?

We are spending 27 per cent of our Budget on education; that is equivalent to Kshs102 billion. Part of this is going towards the grants that we are giving to the universities, so that they can hire these lecturers. We still have huge gaps in terms of the teachers we need at the primary school level; this Government having committed itself to educating for free 7.6 million children in this country. We still need to employ more teachers for them. We also need more teachers at the secondary level. We also need bursaries for the needy. In addition, we need money for the Constituencies Development Fund (CDF); to build the classes that we need for the future generation. Even as we talk, as leaders, let us try to balance all these needs *vis-a-vis* the resources that we have. This is because, at the end of the day, it is Kenyans who will have to pay more taxes, so that we pay the university dons. As of now, they are being paid much more than the rest of civil servants. I hope that when the Minister replies, he will have enough time to share with this House what the lecturers earn. If we start increasing one area, we will cause disproportion.

With those few remarks, I beg to support.

Prof. Olweny: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make a little contribution in support of our lecturers and professors.

Mr. Temporary Deputy Speaker, Sir, Kenya, as a country; the Government is very poor in negotiation. Otherwise, we could not have had the strikes we have had in this country. This is not the first time our lecturers are going on strike! There was a time when even doctors went on strike. We have also had nurses going on strike. In this country, all professionals have gone on strike!

Mr. Sungu: There is a Minister who led a strike!

Prof. Olweny: One of the Ministers here was on strike sometime back. What is he saying about this situation? This is what kicked him out of the university! Kenya is probably one of the few countries where people still go on strike. The Government cannot even negotiate with its workers.

Mr. Temporary Deputy Speaker, Sir, coming to the remuneration of lecturers in this country---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Olweny! Did I hear you say a Minister was on strike?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, one of the Ministers here went on strike while working at the university.

Hon. Members: When? When?

Prof. Olweny: Sometime back! He is sitting here but I do not want to mention his name. That is the truth.

Mr. Temporary Deputy Speaker, Sir, our lecturers' remuneration is unbelievable compared to what their equals in other countries get. Even within the country, a lecturer or a professor who leaves the University of Nairobi and goes to USIU gets much more money. What is in USIU that we do not have at the University of Nairobi or Kenyatta University?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Prof. Olweny! What is USIU?

Prof. Olweny: Mr. Temporary Deputy Speaker, Sir, it is the United States International University.

Daystar University is another example. A professor leaves the University of Nairobi, moves to Daystar University and gets paid much more money. Do our professors need to leave our universities for the private so as to earn more? When they leave universities for other jobs in parastatals and non-governmental organisations, they get paid much more.

Mr. Temporary Deputy Speaker, Sir, do our professors have to go to other countries so as to get better pay? In this country, some hon. Members never even attained secondary school education, yet they get a salary of almost half a million Kenya shillings. Is it fair for us to treat our professors like this? In this House, some of us were taught by these people. You just have a first

degree and yet earn more than Kshs1 million as compared to a person with doctor of philosophy (PhD) degree, who earns much less.

An hon. Member: Hon. Sungu was expelled from the university!

Prof. Olweny: We have Mr. Sungu here, who was my year-mate at the university. He was, however, expelled.

Mr. Temporary Deputy Speaker, Sir, it is a very bitter pill to swallow by some of us who invested a lot in training ourselves. It is high time Kenya, as a nation, developed a negotiating capacity. A Minister should not just threaten professionals with sacking. The Vice-Chancellors, who have misled the Government, should be kicked out. They do not deserve to lead the universities since they threaten their colleagues, who are also professors. What is the difference between a Vice-Chancellor and a full professor? There is no difference! In fact, what those Vice-Chancellors and Deputy Vice-Chancellors should get on top of their salaries is responsibility allowance. They should not be given special salaries.

Thank you.

The Temporary Deputy Speaker (Mr. Poghisio): We have two minutes before the Minister replies. Let us have Ms. Mbarire.

The Assistant Minister for Transport (Ms. Mbarire): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

I want to begin by saying that I was once a university student. During the last UASU strike, I was then a students leader. We joined the lecturers in their struggle and hoped that this was going to come to an end. It is unfortunate that this is happening again. However, I watched my former lecturer, Dr. Muga K'Olale, who taught me philosophy and in whose class I realised that I had a political mind and interest, demanding for a rise in his salary. I also watched my former Economics lecturer, who taught me econometric, Mr. Kinyanjui, who is now a UASU leader, also demanding for a salary increment.

I really hope that somebody will sit down and dialogue with Dr. Muga K'Olale, Mr. Kinyanjui and the other lecturers because I think they have a point. We have to listen to them. The 600 per cent increment that they are asking for is high, but we can reach a compromise.

The Temporary Deputy Speaker (Mr. Poghisio): The remaining time is for the Minister and he can donate some of it to other hon. Members.

Mr. Syongo: On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is very simple. Two hon. Members have referred to the 600 per cent increment as being too high. However, 600 per cent of Kshs10,000 is only Kshs60,000. So, let us not worry about the percentage. We should really be talking about the quantum.

The Temporary Deputy Speaker (Mr. Poghisio): Order! You are wasting the Minister's time.

The Minister for Science and Technology (Dr. Wekesa): Thank you, Mr. Temporary Deputy Speaker, Sir. With your permission, I would like to donate four minutes to my colleague, Dr. Mwiria.

The Assistant Minister for Education (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I would like to thank my Minister for giving me the opportunity to contribute to this Motion.

I would like to support the principle that all of us, from both sides of the House, are in agreement. We sympathise with the lecturers and we appreciate the great role that they are playing with regard to the development of this country. There is no doubt about that. The Government appreciates that very much and we have given evidence to this. Prof. Anyang'-Nyong'o used to be a don during the previous regime and he knows that times were very difficult. It was under the same circumstances that I also left the university. If it was now, I would think twice.

I would like to say that there has been a lot of progress. In 2004, the Government registered

UASU. It is because UASU was registered that the lecturers are now able to rise and speak for themselves. This is good. It would not have happened before. In fact, when we asked for the registration of UASU, we were fired. That is how I was fired. It was just for the registration of a union. That is the first thing that the Government did for the lecturers.

Immediately, we started negotiating with the lecturers in 2004, their salaries were raised. The lowest salary was raised by 62 per cent while the highest, that of a professor, was raised by 117 per cent. This is a remarkable progress. The point is that we were committed to ensuring that our lecturers were the best paid in East Africa. With regard to the report by KIPPRA that Prof. Anyang'-Nyong'o has referred to, we never got beyond the recommendations. We wanted to ensure that we did not lose our lecturers to the other two countries in this region, given the circumstances. We, therefore, ensured that our salaries were better than salaries in any of the public universities in this region and, in fact, much more than in many private universities.

I would also like to indicate that in terms of the United States International University (USIU), which is supposed to be better than our universities, not forgetting that students there are also paying much more and the Government is subsidising public university education, our lecturers are paid better than the lecturers there. It is just like a private doctor and the one who works at the Kenyatta National Hospital where there is subsidisation by the Government. We have to take this into account. Nevertheless, if we included all the benefits that go to our lecturers, their salaries are still competitive even with the best paying private university. We are not saying that, that should be it. We would like to even win the lecturers that are in our private universities and many others that are in other African institutions. We should be committed to that. Let us resolve the issue. Let us ask the professors how much they can bring in terms of consultancy and research. Let us also ask Kenyans who have benefitted from the past corruption activities what they can bring on board. When we talk about corruption, we must realise that some of those people who benefitted from it are here with us, but they are not contributing a little bit to support education in this country. Essentially, let us see what we can do because it is a matter of national importance. We are under pressure that we have to do something.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I want to congratulate our students for being very peaceful and understanding. I hope this will continue because we can solve problems without having to be confrontational.

Finally, I agree with those who say that dialogue should be given a chance. When we first met in the offices of the Ministry of Labour and Human Resource Development with the vice chancellors, the Inter-University Council and the leadership of the University Academic Staff Union (UASU), I did say that we were willing to talk. We even requested the lecturers to initiate talks with us. But they had already decided that there would be no dialogue. I did, in fact, offer myself to be an intermediary between them and the Government. We should just talk both formally and informally to try and arrive at a compromise. We shall get nowhere by being confrontational. It is up to both sides to stop passing the buck until we address the issue nationally and appreciate the fact that we are all affected. So, I will be happy to be part of this dialogue. I have offered to dialogue with my colleagues in UASU and others, so that we can see what to do given the constraints that we have found ourselves in. The direction is for us to talk and see whether we can reach somewhere in the middle. The Government is offering up to Kshs204,000 for professors and UASU is asking for Kshs700,000. I am sure that we could reach at a compromise that is reasonable and which is not too much that UASU will be seen to be greedy and too little for the Government not to be seen caring.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister for Science and Technology (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, first of all, I want to say that I do agree that this is a national issue. I also want to

correct the notion that the Government is not willing to negotiate. I do not want to beat my own drum, but the Chair may remember that I chaired the National Rainbow Coalition (NARC) meetings which needed a lot of skills in negotiations. I am prepared to negotiate over this matter. However, I want to say that I did give an opportunity to UASU officials to speak to me. They came to my office twice and also met them in Naivasha. I was in the process of talking to them, but, all over a sudden, they disappeared and, later on, surfaced to declare the strike. That was a rushed decision because we were prepared to negotiate with them. We had put machinery in place. A reconciliator was appointed and we had the inter-public university forum which included officials from my Ministry, UASU and universities. However, the UASU leadership seems to want to use the strike to negotiate. I just want to say that a strike does not do us any good. A strike is punishing our children and the parents. We, hon. Members here, are directly affected by a strike of this nature. I am appealing to the UASU leadership to obey the court order which is very clear. It says that they should come to us and we negotiate out of court. We are willing to do so.

Let me enlighten my colleagues about what has been going on in the Ministry of Education. In the year 2004, we had a strike and the Government addressed the issue. We, at that time, agreed that the issue of remuneration of our lecturers was to be looked into and we raised their salaries by almost 120 per cent, across the board. As my colleague has said, it is only professors who got a 117 per cent rise. However, the other categories got over 120 per cent rise. Furthermore, because of the agitation to address the issue, this Government was willing to give them a higher rise. We found that to do so, since we had not factored the issue in our budget, we had to find ways of getting some money. We found out that we had at least Kshs0.5 billion. We then went ahead to stop other projects in the Ministry and got a further Kshs1.3 billion, altogether making a total of Kshs1.8 billion. That is the money we were offering this year, to the UASU leadership. That was an average of 15 per cent increase and it is what UASU rejected. I will table this document at the end of this presentation.

I want to share with hon. Members here that the minimum increase we had given an assistant lecturer was Kshs80,000 and the maximum was Kshs99,000; a lecturer was given a minimum of Kshs95,000 and a maximum of Kshs120,000; senior lecturer Kshs105,000 and a maximum of Kshs130,000; an associate professor, Kshs126,000 and a maximum of Kshs162,000, and a professor Kshs156,000 and Kshs204,000 as the maximum amount. This is what we offered them. Of course, there are other advantages we have given them. We have a free medical cover, commuter allowance, leave allowance, responsibility allowance, non-practising allowance for doctors who would have had an opportunity to practise and also some of them are consultants, whom my friend Prof. Anyang'-Nyong'o calls "moonlighting."

Lecturers have an opportunity to do consultancy. In our system, lecturers have a chance to teach parallel programmes where they get between Kshs45,000 and Kshs50,000. This level of remuneration is the highest in the region. It is the highest compared to Uganda and Tanzania. All the countries neighbouring Kenya do not pay such salaries. In fact, we did a study and found out that we pay our lecturers more than those in the USA, taking into account the purchasing power disparity. We are at par with Canada and we pay more compared to Malaysia, New Zealand and South Africa and we are at par with the United Kingdom. Tanzania is way below us.

UASU was requesting for a 700 per cent pay rise. I appreciate that the lecturers need pay rise. However, I am asking the UASU leadership to be aware that, as a Government, we have the responsibility to look into other issues such as HIV/AIDS and increasing the salaries of our teachers. I want to clearly say that, as a Minister, I am willing to have talks and come to an agreement with lecturers.

I beg to move.

*(Dr. Wekesa laid the document
on the Table)*

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members! It is now time to interrupt the business of the day. This House is, therefore, adjourned until next week on Tuesday, 7th November, 2006, at 2.30 p.m.

The House rose at 6.30 p.m.