

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 3rd November, 2004

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

INTRODUCTION OF SEXUAL OFFENCES BILL

Ms. Ndung'u: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:- THAT, in view of the unprecedented and shocking rise in the crimes of rape, incest and other sexual offences; concerned that most rapes occur during the cause of other serious crimes; concerned that everyday women and girls are the primary victims of that terrible violence; totally aware that the current law does not protect all persons including men and boys from that heinous act; aware of the increase of paedophile targeting victims who are small children and the increase of sexual deviants who target mentally challenged persons; concerned that the punishment of sexual crimes is often lenient and does not serve to rehabilitate offenders; convinced that punishment and deterrent to those crimes must be enhanced; this House grants leave to introduce a Bill for an Act of Parliament entitled: The Sexual Offences Bill to clearly define offences of sexual and violence nature including the rape and sexual violation of all persons including women, men, children and mentally challenged persons and to, further, enhance punishment and deterrent effects of such offences to include minimum sentencing for first offenders and the appropriate medical treatment for repeat sexual offenders, paedophiles and sexual deviants.

ORAL ANSWERS TO QUESTIONS

Question No.875

TORTURE OF SUSPECTS BY POLICE

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

- (a) whether he is aware that Mr. Kiragu Mwangi, Joseph Itugu Kabiru and five others from Mbeti Sub-location, Inoi Location, Central Division of Kirinyaga district were arrested on 6th April, 1987 by police officers,
- (b) whether he is further aware that, due to police torture, Mr. Itugu Kabiru and Mr. Paul Mwangi died after they were released from Kerugoya police custody; and,
- (c) what action he has taken against the officers involved in the deaths.

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Deputy Speaker,

Sir, I beg to reply.

(a) Yes, I am aware that the named persons and six others were arrested on various dates between 6th and 9th April, 1987, by police officers from Kerugoya Police Station.

(b) No, I am not aware that Mr. Itugi Kabiru and Mr. Paul Mwangi died due to torture after they were released from Kerugoya police custody.

(c) No action has been taken against any police officers on the allegations of torture of the named persons, since no such report has ever been made to the police to investigate.

Mr. Karaba: Mr. Deputy Speaker, Sir, you realise that the Assistant Minister is answering a Question which he has no knowledge about. It is true that those people died in the police cells. Those were the heydays of *Mwakenya*. It is astonishing that, even after knowing too well that they died, he is giving a conflicting answer. I do not even have a written answer! If he is aware that they were put in the cells and died there, what was the cause of their deaths?

Mr. Mungatana: Mr. Deputy Speaker, Sir, the suspects who died in custody were held on the offence of being in possession of seditious literature, which was a criminal offence at that time. They were interrogated for 10 days before they were released on 16th April, 1987, pending further investigations. We are aware that, at that time, it was a criminal offence and they were investigated. But after that, no complaints were made about the police officers involvement. So far, no arrests have been made.

Mr. Wamwere: Mr. Deputy Speaker, Sir, given that many people were tortured and others killed at Nyayo House and other police stations in those days for no other crime than calling for freedom, could the Assistant Minister consider establishing a Truth, Justice and Reconciliation Commission to establish who tortured who, why and whether it is possible to have reconciliation between the tortured and the perpetrators?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I accept the hon. Member's proposition. In fact, the Government set up a task force. This is a complex matter that involves various issues. So, we are awaiting for a formal decision to be made on the report of the task force. Thereafter, communication will be made to the public.

Mr. Munya: Mr. Deputy Speaker, Sir, the Commission that the Assistant Minister is talking about submitted its report more than a year ago. Is the Government serious on what it promised to do or is it just dilly-dallying?

Mr. Mungatana: Mr. Deputy Speaker, Sir, we are serious! We are aware that the Government has taken some time before making a decision on the issue. That is because the issues are complex. We want to approach them in a way that would bring reconciliation and not violent reactions from various people who were affected.

Mr. Karaba: Mr. Deputy Speaker, Sir, the Assistant Minister said that nobody ever complained about the deaths. Is he satisfied that I am now complaining about it as a Member of Parliament for Kerugoya-Kutus?

Mr. Mungatana: Mr. Deputy Speaker, Sir, I have heard his complaint. He should proceed in the normal manner. A report must be made to a police station and normal investigations will follow. I also encourage him to follow the normal channels, so that the machinery does not get clogged up.

Prof. Oniang'o: Mr. Deputy Sir, I have not received a written answer to my Question.

Mr. Deputy Speaker: The Minister of State, Office of the President, should supply the hon. Member with a written answer!

MEASURES TO ENSURE ADEQUATE
FOOD RESERVES

Prof. Oniang'o asked the Minister of State, Office of the President whether he could inform the House what measures the Ministry is taking to ensure that the country has adequate food reserves for the year 2004/2005.

The Assistant Minister, Office of the President (Dr. Machage): Mr. Deputy Speaker, Sir, I apologise that the hon. Member could not get the written answer early enough, but I offered her my copy to read a few minutes ago.

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

The Government has made efforts to make sure that there is enough food reserves in form of maize for the Financial Year 2004/2005 despite the current drought. Towards this end, the Government plans to import 180,000 metric tonnes; 2 million multiplied by 90-kilogramme bags, to take care of the relief concerns caused by drought and supplement the strategic grain reserves. Already 15,000 metric tonnes have arrived at the Port of Mombasa while 29,000 metric tonnes will arrive by 7th November this year. The balance will arrive by 30th November this year.

In addition, the Government through the National Cereals and Produce Board (NCPB) has been buying maize from the local farmers since July, 2004 and, so far, has purchased about 100,000 90-kilogramme bags of maize. More resources are being mobilised in order to purchase 3 million bags from the main harvest, which has started in the main maize-producing areas of this country.

Finally, following His Excellency the President's declaration of the drought disaster and appealing to the local, the international community and the development partners for 166,000 metric tonnes of assorted food stuffs, the response has been very impressive with contributions and pledges having reached more than 50 per cent of the same. We expect most of the food, which is coming through the World Food Programme, to arrive in the country during the month of December this year. The arrival of this food will ease the pressure on our local reserves.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, this is very disappointing. Firstly, the Assistant Minister should not offer me his copy of the written answer privately. Secondly, this Government does not understand what food reserve is all about. The Assistant Minister is talking about relief food and I had asked about food reserves. If we had adequate food reserves, we would not be begging for relief food. Kenyans cannot just live on relief food. Could we be told who manages food reserves in this country and what kinds of food we are talking about?

Dr. Machage: Mr. Deputy Speaker, Sir, this is a very serious Government. We accept and appreciate the magnitude of the issue. However, my Ministry responds to issues of relief food and rehabilitation. The Ministry of Agriculture should be in a position to discuss the issue of food reserves since food means more than maize, which is stocked under the strategic grain reserves. Indeed, last week, this Question had been referred to the Ministry of Agriculture and, for some reasons, it was pushed back to my Ministry, but because of the collective responsibility of the Ministers, I undertook to answer it.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, since the Assistant Minister has answered the Question, he should be ready to answer all the supplementary questions. Kenya is an agricultural country. The Government should help farmers to produce enough food for their consumption and also for export. What plans has the Government put in place to help farmers to produce enough food to feed this nation?

Dr. Machage: The Government has set aside Kshs65 million to enable us to supply seeds to farmers in this country. Indeed, we have supplied seeds in many districts, such as Machakos, Kilifi,

Malindi, Laikipia, Meru Central, Makueni and Baringo.

Dr. Godana: Mr. Deputy Speaker, Sir, I am disappointed by the answer from the Assistant Minister. It is obvious he has not understood the Question. First of all, the Question was addressed to the Office of the President because food security is a matter within the portfolio of the Office of the President. The question is: What food reserves do we have? What are the quantities of the food stocks and how long will they last? At one time, Kenyans were told by the Minister for Agriculture that we have food reserves to last only a month. However, the Assistant Minister has said that we have food reserves to last three months. What exactly is the position? **Dr. Machage:** Mr. Deputy Speaker, Sir, I understand the responsibility of my Ministry very well. The Government has put in place measures to ensure that Kenyans have enough food. It is true that the Ministry of Agriculture issued an alarming statement sometime back, which was later changed by the Minister for Agriculture himself. We have enough food reserves to last us, at least, up to February, if we continue increasing our stocks by buying maize from the local farmers and some of the food stuffs we are receiving from the donors.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, I am very shocked by the Assistant Minister's answer. The other day, we had a Question on seeds here. What they are giving people in the constituencies is like panadol. In my constituency, they gave out 600 packets of 2 kilogrammes each. This Government is not serious! What measures is the Government taking to ensure that people receive enough seeds, so that they can produce enough food and we have enough food reserves?

Dr. Machage: Mr. Deputy Speaker, Sir, whereas I appreciate the hon. Member's sentiments, the Government is offering to the farmers what we can afford. This does not mean that the hon. Member and his constituents should stop working hard to produce some food.

Capt. Nakitare: Mr. Deputy Speaker, Sir, the Assistant Minister has said that the Government is prepared to import food from outside the country. Instead of using Kshs4 billion to import food into this country, why can the Government not use that same money to promote food production locally? It should buy maize from Kitale, which is now being rained on and is decaying while in other parts of the country, people are suffering.

Dr. Machage: Mr. Deputy Speaker, Sir, indeed, we are addressing the issue as the hon. Member has suggested. When you look at our statistics, you will find that the country will have a food deficit, from our harvest, of about 6 million bags. We, therefore, must import food and, at the same time, buy from the local farmers. Actually, the Government has used about Kshs3.2 million in the last two months to buy food from the local farmers.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, hungry people are very angry people. The Assistant Minister has told us that Kenyans will be very angry from February. Since the Government has already provided free primary education and the Minister for Health is about to provide free medical care services, how will the Office of the President ensure that Kenyans have access to adequate food?

Dr. Machage: Mr. Deputy Speaker, Sir, first of all, it is not the intention of the Government to continue giving relief food. People must work hard to produce food. We anticipate that if we have good rains, we should have a good harvest this season. We are addressing the issue.

Mr. Poghio: On a point of order, Mr. Deputy Speaker, Sir. As you have noticed, the Assistant Minister does not seem to be conversant with the Question. My understanding is that the Question is rightly in the Ministry of Agriculture. Would I be in order to request that the Ministry of Agriculture answers this Question on food security rather than the Office of the President?

Mr. Deputy Speaker: There is no doubt that many issues on the Question could be addressed by the Minister for Agriculture. Indeed, this Question had been originally directed to the

Ministry of Agriculture. I do not really know why it found its way back to the Office of the President. Be that as it may, I think the Assistant Minister has addressed the issue of food shortage as far as it concerns famine relief, but there is still the issue of food production which, in my view, remains unanswered. Therefore, I direct that the Question be re-directed to the Ministry of Agriculture.

(Applause)

Question No.129

REHABILITATION OF BHAGARIA
-KAMBI-YA-MITI ROAD

Mr. Mukiri asked the Minister for Roads and Public Works:-

- (a) whether he is aware that the section of the road between Bhagaria and Kambi-ya-Miti is impassable, as there is no bridge; and,
- (b) what he is doing to redress the situation.

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

(a) I am not aware that the section of the road between Bhagaria and Kambi-ya-Miti is impassable, as there is no bridge because the stream has a rocky river bed which allows vehicles to cross except during heavy rains. People are also able to cross during the dry spell.

(b) The Bridge Unit of my Ministry, in Rift Valley Province, has assessed the type of crossing required to provide all-year-round passage and forwarded recommendations to the headquarters for final design of the structure. Funding for construction should, however, be made by the District Roads Committee (DRC), since the road falls under the category of roads maintained by the DRC.

Mr. Mukiri: Mr. Deputy Speaker, Sir, I am very disappointed by the answer given by the Assistant Minister. This is a permanent river. However, he says that road is passable. I do not know whether vehicles are able to swim. I have been there and I know what I am talking about. The Assistant Minister has never visited that area. Vehicles cannot go across the bridge. Could the Assistant Minister tell this House what he is doing to rectify the situation because the DRC money he is talking about is not enough to construct a bridge? What is he doing to make sure that this section of the road is passable?

Eng. Toro: Mr. Deputy Speaker, Sir, during the last financial year, Kshs600,000 was issued for this particular road. The issue of the bridge is something that the Ministry cannot undertake to do at the moment because our Bridge Unit cannot cope with the demand for both small and big bridges countrywide. However, hon. Members of Parliament now have the DRC money going to their constituencies. The 24 per cent is also going to be directed to the districts. In addition, the Constituency Development Fund (CDF) money which is being given to the constituencies is also supposed to be allocated to such projects which hon. Members of Parliament think are necessary and important. I cannot say we will do all the bridges countrywide. So, I suggest that hon. Members allocate some of CDF money at their disposal to the construction of some of the small bridges to ease the problem of transportation in their constituencies.

(Loud consultations)

Mr. Deputy Speaker: Order, hon. Members! Please, consult in low tones!

Ask your question, Mr. Boit!

Mr. Boit: Mr. Deputy Speaker, Sir, I think there are funds set aside for emergencies. Secondly, the Kshs6 million given for district roads management is not enough. There are some roads in Baringo District, for example, classified as Class "B" and, therefore, we cannot work on such roads. When the Minister toured my constituency, he ordered District Works Engineers to repair that road, but nothing has been done. It is a pity that tourists cannot go to that part of the country because of the failure of the Ministry to address emergencies. What is the Assistant Minister doing to repair and construct bridges on our roads?

Eng. Toro: Mr. Deputy Speaker, Sir, I agree with the hon. Member. But he must also agree that we do not have vast resources to carry out all the work that we require to do countrywide. Most hon. Members ask Questions imploring the Ministry to use Emergency funds to repair roads and bridges. However, the Emergency Fund money is not much and we cannot use it to meet the requests of all hon. Members. However, I would like to implore hon. Members also to consider using CDF money for small projects in their constituencies because we do not have a lot of money to cater for the various bridges countrywide.

Mr. Deputy Speaker: Sorry, hon. Members, I have to move fast. Last question by Mr. Mukiri!

Mr. Mukiri: Mr. Deputy Speaker, Sir, these answers that hon. Members should use the CDF money are becoming too regular. The Government is not even releasing this money the way it is supposed to be. The Assistant Minister says the Government is not supposed to intervene in this kind of roads, yet, he has admitted that last year they granted Kshs600,000 to this road. I do not know whether this money was ever utilized because it is not there. Since that money was not utilized, could he consider adding another Kshs2 million, so that we can construct the bridge?

Eng. Toro: Mr. Deputy Speaker, Sir, the money for bridges in this financial year has already been allocated. I will not be able to allocate even Kshs1 million because I do not have the money. It is my understanding that the money which I said was given to the district was utilized for improvement of this particular road, unless the hon. Member has contrary information.

Mr. Deputy Speaker: Next Question by Dr. Manduku!

Question No.653

ALLOCATION OF FUNDS TO
FIGHT AIDS/MALARIA/TB

Dr. Manduku asked the Minister for Health:-

- (a) what the current records are of death rate per annum from AIDS, malaria and tuberculosis (TB);
- (b) how much money was allocated to fight these diseases from the Global Fund and from the Government for the year 2003/2004; and,
- (c) how much has been given to each constituency.

The Minister for Health (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The current records of deaths per annum from HIV/AIDS, malaria and TB are as follows: HIV/AIDS, 150,000 persons per annum; malaria, 30,000 per annum and TB, 20,000 per annum.

(b) The allocation of funds for HIV/AIDS from both the Government and the Global Fund

are as follows:-

Government of Kenya, Kshs22,064,849 and Kshs30 million for malaria. No funds were allocated for TB. From the Global Fund; HIV/AIDS, Kshs318 million; malaria, Kshs800 million and TB, Kshs400 million.

(c) The funds allocated for HIV/AIDS by the Ministry of Health are not to be disbursed to the constituencies, but to the districts. Information on how much money has been disbursed to constituencies from other Government of Kenya funds for HIV/AIDS falls under the Office of the President. It can be obtained from the National Aids Control Council. Malaria funds are disbursed to the districts and not to the constituencies. The tuberculosis funds are not meant for distribution to the constituencies, but to the districts are per the implementation plans.

Thank you.

Dr. Manduku: Mr. Deputy Speaker, Sir, from the answer given by the Minister, the information we have is usually that malaria is the number one killer in Kenya. But the Minister has changed the version. She has always been saying that malaria is the number one killer. She has now changed and says that HIV/AIDS is the number one killer with 150,000 persons per annum. Has she changed her mind and would like to tell Kenyans that we have now controlled malaria and our problem is now HIV/AIDS? What steps is she taking to ensure that HIV/AIDS is controlled as in the case with malaria?

(Applause)

Mrs. Ngilu: Mr. Deputy Speaker, Sir, malaria is one of the major killer diseases that we are dealing with in this country. However, HIV/AIDS still stands as---

(Mr. Wanjala stood up in his place)

Mr. Deputy Speaker: Mr. Wanjala, you must not interrupt the Minister when she is answering a question!

Order, Mr. Wanjala! Sit down! Let the Minister finish!

Mrs. Ngilu: Thank you, Mr. Deputy Speaker, Sir, for your protection. Malaria is one of the diseases that we are dealing with, but it is not the leading killer. HIV/AIDS still remains the major disease that is killing our people. We have introduced anti-retroviral drugs and people are accessing them at a very low cost. The cost is now as low as Kshs500 per month and the drugs are available.

We have been able to control malaria because we are giving free malaria drugs. We have also intensified our prevention campaign.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. You heard the Minister say that 150,000 people die of HIV/AIDS every year. HIV/AIDS is not a disease that kills. People die of HIV/AIDS-related diseases that include malaria, tuberculosis, typhoid and pneumonia. Is the Minister in order to mislead the House that HIV/AIDS kills 150,000 Kenyans annually, instead of mentioning the diseases?

Hon. Members: "Dr". Wanjala! "Dr". Wanjala!

(Applause)

Mr. Deputy Speaker: Mr. Wanjala, that is a very good question and I will ask the Minister to answer it. However, you rose on a point of order when she was answering another question! If you had just waited and caught my eye, it would have been a very good question. But there is

nothing out of order!

Madam Minister, please, proceed!

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the hon. Member is right. When the levels of immunity go low, then other diseases take charge of your body and, as a result, you die. Therefore, we treat many other diseases that affect people before HIV/AIDS takes control of their bodies.

Dr. Ali: Mr. Deputy Speaker, Sir, the Minister knows that tuberculosis is a very serious disease that has been there for a long time. Right now, with the HIV/AIDS pandemic, tuberculosis is one of the leading killers in many parts of the world. Why did the Minister reduce the functions of the tuberculosis centres at the district level? They are not as effective as they used to be! Most of those centres are not manned properly these days. What does she intend to do about that?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, as hon. Members know, tuberculosis had almost been eradicated. But due to the emergence of HIV/AIDS, it is back with us. We are treating it every single day. We are even increasing the funding and the number of doctors.

Mr. Muchiri: Mr. Deputy Speaker, Sir, is the Minister satisfied that the money disbursed by the National Aids Control Council to the constituencies helps to control that disease?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, I cannot answer that question because it is not in the docket of the Ministry of Health.

Mr. Deputy Speaker: Last question, Dr. Manduku!

(Loud consultations)

Order, Members! We must make progress! Let us hear, Dr. Manduku!

Dr. Manduku, please, proceed!

Dr. Manduku: Mr. Deputy Speaker, Sir, in the previous years, the Ministry used to tell us that 700 Kenyans died per day from HIV/AIDS and related diseases. What is the death rate per day now? What is the prevalence rate for Kenya? Last year, the prevalence rate was about 13 per cent.

Mrs. Ngilu: Mr. Deputy Speaker, Sir, we have got new records which show that the prevalence rate of HIV/AIDS is now 7 per cent, down from 13 per cent.

An hon. Member: How many die daily?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, about 300 people die daily.

Mr. Deputy Speaker: Next Question by Eng. Eric Nyamunga!

Question No.672

CONSTRUCTION OF NYANDO
COUNTY COUNCIL HEADQUARTERS

Eng. Nyamunga asked the Minister for Local Government:-

- (a) when Nyando County Council started construction of the Nyando County Council Headquarters and what the contract price was at that time;
- (b) how the contract price was determined; and,
- (c) how much money has been paid to the contractor and how much more is outstanding.

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

(a) Nyando County Council started the construction of the County Council Headquarters on 27th April, 2001. The quoted contract price at the time was Kshs4,130,000,

(b) The council advertised the tenders early 2001 and awarded the contract on 27th April, 2001 vide Tender Committee Min.No.1/2001. The council followed the procurement regulations, Legal Notice No.51 of 2001, which culminated in determining the contract price of Kshs4,130,000. That figure was unprocedurally changed to Kshs13 million.

The then clerk, one Mr. Martin Onyango Achar and Treasurer, one Mr. Benson Odhiambo Agengo, were taken to court. The latter, who was alleged as the main mastermind, died and the clerk was acquitted for lack of evidence. The matter is currently being investigated by the Criminal Investigations Department (CID). Appropriate disciplinary action will be taken against the former clerk, should fresh investigations reveal evidence that he played a role in the loss of the funds.

(c) The contractor M/S World Project and Building Construction, of P.O Box 2716 Kisumu, has to date, been paid a total of Kshs11,700,000, leaving a balance of Kshs1,300,000 as the outstanding payment.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, I think this is a clear case of theft. When the project was tendered, it cost Kshs4.1 million. Without changing the square area of the building, the cost got higher from Kshs4.1 million to Kshs13 million. The Chief Executive Officer of the Nyando County Council is the clerk. He is the accounting officer. Why does the Ministry want to shift blame to the treasurer who is now dead instead of holding the Clerk of the Nyando County Council responsible?

Mr. Tarus: Mr. Deputy Speaker, Sir, it is not the Ministry that shifted the blame to the dead treasurer. What happened is that they were taken to court and the clerk was acquitted for lack of evidence. That was the court's decision.

Mr. Serut: Mr. Deputy Speaker, Sir, cases of misappropriation of funds by officers of various county councils are well known in this country. Auditors have been appointed and they have carried out audit. Their reports have always indicated that council officials have engaged in misappropriation of funds. What is the Ministry doing to ensure that all council officers implicated in misappropriation of funds, including officers of Mt. Elgon County Council, are taken to court and charged?

Mr. Tarus: Mr. Deputy Speaker, Sir, we have instituted the necessary reforms in the Ministry targeted at ensuring that there is accountability and transparency in all local authorities. Currently, we have identified officers whose background is free of corruption; to man local authorities. Those officers we have found out that were involved in misappropriation of funds in their local authorities, we have intentions to take disciplinary action against them.

Eng. Nyamunga: Mr. Deputy Speaker, Sir, I think the Ministry has a special soft heart for clerks working at the Nyando County Council. Just last month, I asked a Question here and the Minister accepted that the Nyando County Council Clerk had paid for a nine-year-old grader imported from Indonesia. The payment was made as if the grader was a new one! A new grader costs only Kshs14 million. The nine-year-old grader has cost the council over Kshs10 million. The clerk responsible for that mess is still on duty. He has not even been interdicted! Procurement regulations are quite clear. You cannot vary a contract for---

Mr. Deputy Speaker: Eng. Nyamunga, please, ask your question!

Eng. Nyamunga: Mr. Deputy Speaker, Sir, sorry for that. It is only that I am getting irritated because we are not getting services in my district. Procurement procedures are not being followed. How come that this contract was varied by more than 25 per cent against the Treasury guidelines on procurement?

Mr. Tarus: Mr. Deputy Speaker, Sir, the Ministry concedes that it was unprocedural to change the contract after it had been awarded. However, we are currently doing investigations and one of the issues that have hampered completion of the project is that the documents have been

burnt. We are trying to do our best and we shall take action against that particular clerk.

Question No.841

REVIVAL OF MUTITO WATER PROJECTS

Mr. K. Kilonzo asked the Minister for Water and Irrigation:-

(a) whether she is aware that two water projects namely; Thua Muthunguwe and Thua Kyamatu that were designed and constructed during the colonial era ceased to operate in the mid-1980s;

(b) whether she is further aware that pipes provided by the Government in the early 1990s to revive the projects are still on the site; and,

(c) what immediate plans she has to operationalize the projects during this financial year.

The Assistant Minister for Water and Irrigation (Mr. Munyes): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that the construction of Thua Muthunguwe Water Project commenced in 1982 and it was only 20 per cent complete when it stalled in 1991 due to lack of adequate funding. The construction of Thua Kyamatu Water Project commenced in 1976 and was completed in 1980. On completion, the water supply was handed over to the beneficiary committee for management. The water supply operated up to 1984 when it stalled due to high operation and maintenance costs.

(b) I am also aware that some of the water pipes delivered to Thua Muthunguwe Water Project were not laid because the beneficiary community did not provide the required labour for bush clearing and digging of trenches as had been planned. My Ministry will liaise with the local provincial administration to have the pipes laid down by the beneficiaries before the end of this year.

(c) My Ministry, in this financial year, will review the design of the two projects in order to determine the level of funding required to operationalize them. The Ministry will thereafter inform the beneficiary community to source for funds for the projects.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, the Assistant Minister has not gotten his facts right because the Thua Kyamatu Project was started way back in the 1970s. It was never completed and handed over to the beneficiary community. Could the Assistant Minister endeavour to visit the two projects so that he can give us an adequate answer on the way forward? My constituents are suffering for lack of water and yet the projects remain stalled.

Mr. Munyes: Mr. Deputy Speaker, Sir, it is not true that we have not put a lot of efforts in that direction. My Ministry has allocated Kshs1.3 million. So far, the project has received two-thirds of that money, that is, Kshs825,000. We are also endeavouring to provide other funds as soon as we get them. I am also ready to visit the projects whenever the hon. Member wants me to do so.

Mr. Ivuti: Mr. Deputy Speaker, Sir, these two water projects were started when I was the hon. Member for Kitui South in the early 1980s. The projects stalled because the Ministry was not interested in them. If at all it is interested, could the Ministry tell us how much money the Ministry has voted for the same projects this year?

Mr. Munyes: Mr. Deputy Speaker, Sir, I said that we will review the design of the two projects. However, so far we have sent to the district, Kshs8 million for various works. For these particular projects, we want to design the plans first before we send the money.

Mr. Deputy Speaker: The hon. Member asked how much money has been allocated for the projects this financial year.

Mr. Munyes: Mr. Deputy Speaker, Sir, we have not allocated any money, but we have funds to ensure that the designs are done.

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, in his answer to part (b) of the Question, the Assistant Minister said that his Ministry is liaising with the local provincial administration to ensure that the pipes are laid. This will be after 22 years of abandonment of the project. Certainly, the Assistant Minister is not serious because most of the pipes are now worn out. Could the Assistant Minister look at the projects afresh so that he brings a satisfactory answer to this House? He should not give us answers just for the sake of it.

Mr. Munyes: Mr. Deputy Speaker, Sir, we are putting a lot of efforts in ensuring that the two water projects succeed. As I said before, we are using the local provincial administration to help us in mobilising members of the beneficiary community. On 16th November, 2004, through the District Officer (DO) of the area, we will discuss the entire project and mobilise members of the community which will own the projects.

(Mr. K. Kilonzo stood up in his place)

Mr. Deputy Speaker: Order, Mr. Kilonzo!

Question No.912

CONSTRUCTION OF BARRIERS ON RIVER SIO

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

- (a) if she could consider erecting barriers on River Sio to protect the people and livestock from crocodiles which attack them while accessing drinking water; and,
- (b) if she could further implement a safe drinking water programme in the areas along River Sio to stop the villagers dependence on the river water and reduce the risk of attacks.

The Assistant Minister for Water and Irrigation (Mr. Sugow): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Accessing drinking water from River Sio is only one of the many activities which contribute to incidents of attacks by crocodiles. The other activities include fishing, river crossing by boats, wading, swimming, sand harvesting and herding of livestock near the riverbanks among others. In this regard, my Ministry does not consider erection of barriers at drinking water draw-off points as an effective solution to the crocodile menace since the draw-off points are not permanent and incidents of attacks are not limited to specific places along the river and tend to be sporadic. A more permanent solution to the crocodile menace would be to rehabilitate and augment the existing water supply schemes and construction of bridges across Sio River.

(b) My Ministry has in the past developed a number of water supply schemes and facilities along Sio River to provide safe drinking water for the affected residents. These water supply schemes include Funyula/Bumula Water Supply, Mung'ang'a Water Supply, Bukholi Water Supply and several water points which were constructed under the Kenya/Finland Community Water Supply Programme. Most of these water---

Mr. Deputy Speaker: Order, Mr. Assistant Minister! I have asked Ministers, please, answer Questions in a short form. I think that answer has gone on for too long. Could you please shorten it?

The Assistant Minister for Water and Irrigation (Mr. Sugow): My answer to part "a" of

the Question has been a little long because of the nature of the Question. It went beyond the scope of the Ministry of Water and Irrigation.

Mr. Deputy Speaker, Sir, my Ministry has in the past developed a number of water supply schemes. These water supply schemes include Funyula/Bumula Water Supply, Mung'ang'a Water Supply, Bukholi Water Supply and several water points which were constructed under the Kenya Finland Community Water Supply Programme. Most of these water supply projects require rehabilitation. However, due to budgetary constraints, the projects should be prioritised for rehabilitation at the local level to enable the Ministry include them in the forward budget.

During the current Financial Year 2004/2005, Kshs2.6 million has been allocated for rehabilitation of Busia/Mundika Urban Water Supply which shares the same intake and water treatment plant with Funyula/Bumula Water Supply.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, as you can see from the answer, the Ministry of Water and Irrigation is not aware of the issue at the grassroots level and they do not understand the Question we are asking them. The local people do know all those things that the Assistant Minister is telling us. They are asking to be protected from crocodiles when they are drawing water for domestic use and when animals are drinking water. This is a function of the Ministry of Water and Irrigation. We have asked the Ministry, therefore, to find a way of bringing water closer to the people so that they can access drinking water. We are not talking about swimming or crossing the river, but access to drinking water. We have heard of children being eaten---

Mr. Deputy Speaker: Ask your question!

Dr. Ojiambo: Mr. Deputy Speaker, Sir, I would like the Ministry to address the issue of protecting water points where animals and human beings go to fetch water so that they are not attacked by crocodiles.

Mr. Sugow: Mr. Deputy Speaker, Sir, as I had indicated earlier the incidents of attacks are not just limited to the water points because the crossing points are many and the nature of these activities are diverse, not just the drawing of water. Since there are very few bridges across this river, I am urging the hon. Member to also contact other Ministries so that the question of attacks can be addressed more comprehensively. As far as the Ministry is concerned, there are water points that are already in existence which will help avoid the question of drawing water from the river. In the meantime, the Ministry is considering formulating a policy where we will be requesting Members of Parliament to co-operate in putting small amounts of money into small community water projects. The Ministry will reciprocate accordingly. This is a policy of "a shilling for a shilling" where, when members put in a certain amount of money for community water supply projects, the Ministry will also reciprocate and put the same amount in order to enhance provision of water at the constituency and grassroots level.

Mr. Ethuro: Mr. Deputy Speaker, Sir, you will appreciate that the Assistant Minister has not really answered this Question. There are two parts of this Question. One was to protect human beings and livestock from crocodile attacks. The second one was on the improvement of water resources. While replying to part "a" of the Question, the Assistant Minister admitted that the best solution to this problem is to erect bridges as well as to improve the water sources. In part "b" of the Question he says that they have allocated money to another project, but has the same intake with Funyula and Bumula. What is he doing to implement a safe drinking water programme for the people who have to use River Sio? What is the Ministry doing to protect the livestock from crocodiles?

Mr. Sugow: Mr. Deputy Speaker, Sir, the only way the Ministry can help this situation is to ensure that the community avoids drawing water directly. That is why I am saying that the Ministry has already provided quite a number of water points that are already in existence. The Ministry is

also ready to co-operate with the community to come up with small community projects. The hon. Member should co-operate and put in money from the Constituency Development Fund. The Ministry is ready to reciprocate and add on to this money in order to come up with a comprehensive solution.

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

Mr. Deputy Speaker: Mr. Wanjala, for your information, when you were away things changed here. We do not want those kind of frivolous points of order and interruptions. So, please relax so that you move in and join the rest of the hon. Members who are here.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, this is a Question that concerns Mr. Wanjala as well and he would have added value to it. Nevertheless, this is an emergency situation and it requires the Government to put in concerted efforts and speak about it at Cabinet level; to find a solution to it. Kenyans have been aggrieved and lives of very young people and innocent women have been destroyed by these animals. We are asking the Government to take urgent action to protect animals and lives from being eaten by wildlife. Crocodiles are wildlife. In this particular instance, we are talking about giving them domestic water. That is why we are asking the Minister for Water and Irrigation to work with other Cabinet colleagues to provide emergency funds to help these people instead of giving us the water development history.

Mr. Sugow: Mr. Deputy Speaker, Sir, I sympathise with the communities which are facing this problem. I undertake to consult other concerned Ministries in order to find an immediate solution to this problem.

Mr. Deputy Speaker: Very well! I appreciate the importance of this Question as far as it relates to the areas in question, and particularly, Budalangi Constituency. However, hon. Members, it is now 10.00 a.m. and I still have five more Questions to go. So, when I rush, you should understand because we have to go through these Questions. Ordinarily, we would have ended Question Time by now, but I will give a few more minutes so that we can finish the remaining Questions.

Next Question by Mr. Waithaka!

Question No.613

SUPPLY OF ELECTRICITY
TO NJABINI TOWNSHIP

Mr. Waithaka asked the Minister for Energy:-

- (a) whether he is aware that Njabini Township in Kinangop Constituency is the only divisional headquarters in Nyandarua District, which has no electricity;
- (b) whether he is further aware that the residents of the township paid their contribution under the Rural Electrification Programme more than five years ago; and,
- (c) what plans he has put in place to ensure that Njabini Township is supplied with electricity.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Njabini Township in Kinangop Constituency is the only divisional headquarters in Nyandarua District which has no electricity.

(b) I am aware of a group scheme initiated by some residents of Njabini Market and neighbouring areas who paid a deposit of Kshs1.5 million to the Kenya Power and Lighting

Company (KPLC) about five years ago. Later on, the project scope was expanded by the increase of the group's membership from 174 to 211 applicants at a cost of Kshs28 million. However, construction work has not been carried out due to failure by members of the said group to clear the balance thereof amounting to Kshs26,500,000 to enable the KPLC undertake the work.

(c) Njabini Township is programmed to get electricity under both the anticipated Finland and French funding, whichever comes earlier. In this regard, it is projected that the township will get electricity within the next two years.

Mr. Waithaka: Mr. Deputy Speaker, Sir, on the night of 31st October and 1st November this year, policemen armed with AK-47 rifles invaded Satima Petrol Station under the cover of darkness and took away Kshs500,000. That clearly shows the importance of supplying electricity to this town. Could the Assistant Minister tell us when the project will take off? He has said that the project will be implemented within the next two years. He is aware of the problems the residents face, including being robbed by police officers who are in uniform and armed with AK-47.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, this is a big project. Having been neglected, it will cost the Government, through donor funding, between Kshs40 million and Kshs50 million. This is not a small project. However, the Finland Planning Mission will be in the country from 8th to 19th November, 2004. They will collect further details on this project. I would like to assure the hon. Member that around February, next year, I will tell him when the earth-breaking ceremony will take place.

Mr. Mwandawiro: Bw. Naibu Spika, chini ya mpango wa usambazaji wa umeme katika sehemu za mashambani (REP), wananchi wengi nchini walitoa asilimia fulani ya pesa baada ya kuahidiwa na Wizara ya Kawi kwamba watapewa umeme. Watu wa Mwanda na Vuria walitoa Kshs2 milioni mwaka uliopita na wakaahidiwa kwamba watapewa umeme, lakini hawajapewa. Je, Wizara ina sera gani kuhakikisha kwamba wananchi wa sehemu za mashambani wanasambaziwa umeme baada ya kulipa pesa ambazo wameambiwa walipe?

Mr. Kiunjuri: Bw. Naibu Spika, ni kweli Wizara ya Kawi imekuwa ikipokea asilimia kumi ya pesa za miradi ambayo itatekeleza. Tangu mwaka jana, Wizara iliacha kupokea pesa hizo. Wizara itasambaza umeme kwa wananchi ambao walitoa pesa, na wale ambao hawatasambaziwa umeme, watarudishiwa pesa zao.

Mr. Waithaka: Mr. Deputy Speaker, Sir, if you look at the answer the Assistant Minister has given to part "b" of my Question, you will find that they are saying that the membership increased from 174 to 211 applicants at a cost of Kshs28 million. This was under the Rural Electrification Programme and the members were only supposed to pay 10 per cent of that amount. I would like to say that Kshs1.5 million is far in excess of what they were supposed to pay. What was the balance of Kshs26.5 million which the members were unable to pay for, if they were only supposed to pay 10 per cent? Could the Assistant Minister give the specific reason why that project was not undertaken by the Government since the members had paid the required 10 per cent?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the hon. Member is also aware that, that project did not take off because there were political in-fighting. The hon. Member was being fought by his KANU opponent at the expense of their constituents. It is high time hon. Members of Parliament and their opponents realised that these projects are for the betterment of their communities, and not to their benefit as individuals. So, his opponent should take the responsibility of the KPLC not having supplied them with electricity.

Question No.629

OWNERSHIP STATUS

OF KWALE/GALU/KINONDO PLOT

Mr. Rai asked the Minister for Lands and Housing:-

- (a) whether he could explain the circumstances under which Plot No.Kwale/Galu/Kinondo/683 was transferred to Titus Kilonzo Kitana and later to Latis Construction Company Ltd;
- (b) whether he is aware of a court order dated 31st May, 2001, vide HCC No.97 of 1997 inhibiting any transactions involving the plot; and,
- (c) what urgent measures is he taking to rectify the anomaly.

The Assistant Minister for Lands and Housing (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Originally, Plot No.Kwale/Galu/Kinondo/683 was owned by Luke Musomba Mutio. On 18th September, 1975, Mr. Mutio transferred the land to Laban Ngatia Muchemi in consideration of Kshs50,000. Mr. Muchemi later sold the same parcel of land to Mr. Titus Kilonzo Kitana at a cost of Kshs900,000. On 6th June, 2001, a prohibitory order dated 31st May, 2001, vide HCC No.97 of 1997 of the High Court of Kenya, was registered against the title. In 2002, a fake raising order was used and the land transferred to Latis Construction Company Ltd.

(b) I am aware of a court order dated 31st May, 2004 vide HCC No.97 of 1997, inhibiting any transactions involving the plot. There was, however, a raising order Civil Suit No.97 of 2002, which was used to lift the prohibitory order of 31st May, 2001. The raising order used appeared fake and is being investigated. The officers involved, including the Land Registrar, were interdicted and arraigned in court vide Criminal Case No.1859 and 1915 of 2003. (c) Parcel No.Kwale/Galu/Kinondo/1515 and Kwale/Galu/Kinondo/1516, which are as a result of subdivision of Kwale/Galu/Kinondo/683; the original parcel number, have already been restricted. There are no dealings on the two parcels of land until the matter is determined by court. **Mr. Rai:** Mr. Deputy Speaker, Sir, while appreciating the concern taken by the Assistant Minister, could he tell this House who are the current owners of this plot and how much was it sold for?

Mr. Ojode: Mr. Deputy Speaker, Sir, the current owners are Messrs. Waterfront Beach Properties Ltd. This parcel of land was sold at Kshs6.5 million.

Mr. Ngozi: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister tell the House that a restriction order was given. The parcels of land in question are within my constituency, and as of last week, the developer was still developing this plot. Could the Assistant Minister tell us when this restriction order was given?

Mr. Ojode: Mr. Deputy Speaker, Sir, the restriction order was given in the year 2002.

Mr. Rai: Mr. Deputy Speaker, Sir, arising from what the Assistant Minister has told this House, that the restriction order was given in 2002, we are now in 2004 and work is still going on, on the ground. What action will the Assistant Minister take? Who are the perpetrators of these forged documents, including the Registrar of Lands?

Mr. Ojode: Mr. Deputy Speaker, Sir, as far as the Ministry is concerned, we are not aware that there is any kind of development taking place, because there is a restriction order given on this particular parcel of land. If there is any development which is going on, that is illegal.

Mr. Serut: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to state that the registered proprietor is the previous owner when Local Authorities Transfer Fund (LATF) is the current registered owner, despite the registration of the restriction?

Mr. Ojode: Mr. Deputy Speaker, Sir, I had mentioned that a title was issued when the transfer was being done through the fake documents. It was registered under the Waterfront Beach

Properties Ltd. and that is why the case is in court.

QUESTIONS BY PRIVATE NOTICE

MAYHEM AT KENYATTA DAY CELEBRATIONS IN KARATINA

Mr. Gachagua: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that Kenyatta Day Celebrations at Karatina were disrupted after Cllr. Kamau of Railway Ward and Cllr. Nderitu Julius prevented the area Member of Parliament from addressing the crowd?

(b) Is he further aware that officers from Karatina Police Station did not take any action to arrest the situation?

(c) What action is he taking to ensure that those responsible for causing mayhem are brought to book?

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

(a) I am aware that there were temporary disruptions of Kenyatta Day Celebrations at Karatina.

(b) No, I am not aware. The police arrested five people, though and prevented the situation from getting worse.

(c) Five people were arrested and arraigned in court and made to execute a bond of Kshs50,000 to keep the peace.

Mr. Gachagua: Mr. Deputy Speaker, Sir, the Assistant Minister is aware that this is the third time that these kind of disruptions are occurring in Karatina. He is also aware that these disruptions were politically-instigated by councillors. It is not true that people were arrested in Karatina on that day. The police simply stood by as the mayhem continued in the stadium. These disruptions were done in front of cameras, the Officer Commanding Station (OCS), the District Officer (DO), and these people were not charged with any substantive offence. They were merely asked to execute a bond of peace. Could the Assistant Minister clarify how this happened? It is clear that an offence was committed in full view of cameras and the police did not take appropriate action.

Furthermore, since these councillors refused to execute the bond, could the Assistant Minister consider charging them with a substantive offence so that this matter does not recur in future? It is a shame and the Assistant Minister must take action!

Mr. Mungatana: Mr. Deputy Speaker, Sir, first of all, I would like to join the hon. Member in condemning the fracas that took place during Kenyatta Day celebrations. Hon. Members must be respected and especially so, in their constituencies.

I have just been in touch with the police again on that particular issue. Cllr. Christopher Kamau Kariuki, the Mayor of Karatina, pleaded not guilty when he was asked to execute the bond to keep peace. Cllr. Nderitu Julius refused to execute the bond and so did Cllr. Jack Kanja Ngatia. We have charged them with the offence of causing disturbance, and the hearing is coming on the 11th of November, 2004.

Mr. Joseph Mugo Muiga and Simon Kanywira Muriuki pleaded guilty and they agreed that they participated in causing the fracas. Therefore, we bonded them for one year to keep the peace, in default of which they will be liable to pay Kshs50,000.

Mr. Sasura: Mr. Deputy Speaker, Sir, the issue hon. Gachagua has raised is very pertinent, and it is like a mathematical series. On Madaraka Day, the same thing happened and there is a likelihood that it is going to happen on Jamhuri Day. Could the Assistant Minister confirm or deny that hon. Gachagua is deliberately being provoked and attacked because he is not "NARC-compliant"? What is the root cause of this matter? Hon. Gachagua is lamenting all the time in this House.

Mr. Mungatana: Mr. Deputy Speaker, Sir, the cause of the problem is political. But politics or no politics, Members of Parliament must be respected within their constituencies. This matter is regrettable. We will ensure that the issue will not be repeated on Jamhuri Day. I can give you that assurance.

Mr. Gachagua: Mr. Deputy Speaker, Sir, I am happy that, at least, this time round, somebody has been arraigned in court. However, although the Assistant Minister is saying this is political, there is really nothing political about somebody standing up and simply disrupting the celebrations. This is an offence committed by an individual who is known by name. I do not want that excuse. I want the Assistant Minister to charge those responsible. As far as I know, these people have not been charged.

So, I am seeking an assurance that a substantive offence will be preferred against these individuals and that nothing like this will happen again.

Mr. Mungatana: Mr. Deputy Speaker, Sir, I want to give my assurance to this House that nothing like that will happen to the hon. Member come the next celebrations.

FARE INCREASE BY EA SAFARI EXPRESS

Prof. Mango: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Transport the following Question by Private Notice.

(a) Why has the East African Safari Express more than doubled its fares on domestic routes within the past three months?

(b) Could the Minister confirm that this increase reflects the current economic realities?

The Assistant Minister for Transport (Mr. Ligale): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The airline flies domestic routes to Kisumu and Lokichoggio. The Kisumu and Lokichoggio air fares have increased from Kshs4,500 and Kshs12,478 three months ago to the current Kshs5,950 and Kshs13,468.50 currently. Kenya Airways, which is a competitor on the Kisumu route charges Kshs5,505, a difference of only Kshs445. The air fare increase is by 32 per cent over the last three months, and not by a 100 per cent as suggested by the hon. Member of Parliament.

(b) The cost of fuel has gone up from an average of Kshs24 per litre six months ago to Kshs36 per litre currently. This represents an increase of 67 per cent and may have contributed to the increase in the air fares as one of the factors. However, it should be noted that the Government has no control over air fares. Market forces of demand and supply determine the air fares.

Prof. Mango: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. However, the fares were increased long before the current increase in fuel prices. The same airline has an aircraft flying to Mombasa and it has been charging half the fare. Could he tell us why the fare to Mombasa remains constant and cheaper than the fare to Kisumu and Lokichoggio?

Mr. Ligale: Mr. Deputy Speaker, Sir, I do not have the exact figures for the air fare to Mombasa. However, Mombasa is a very competitive route. There is not only Kenya Airways, but Regional Air as well as other charter airlines on that route. Therefore, that airline has to remain

competitive to fly on that route. Unfortunately, on the Kisumu route, there is only East African Safari Express and Kenya Airways which has only very few flights. Therefore, the competitiveness is not as high.

Mr. Oparanya: Mr. Deputy Speaker, Sir, you heard the Assistant Minister say that there has been an increase in fuel prices. However, at the same time, Kenya Airports Authority (KAA) has increased the landing, parking and concession fees, which the Assistant Minister has the power to control. As a result of the increase, these charges have been passed on to the consumers. What is the Assistant Minister doing to control these charges, which are within his powers?

Mr. Ligale: Mr. Deputy Speaker, Sir, the KAA also has to meet its expenses. If a reasonable request is put up, I will consider it on the basis of the facts presented.

Mr. Marende: Mr. Deputy Speaker, Sir, it is in the public domain that the Government of Kenya is still the majority shareholder in Kenya Airways. Could the Assistant Minister consider introducing a larger aircraft to compete with the East African Safari Express on the Kisumu route and put in place a fare that is lower than Kshs5,100, which is currently being charged by Kenya Airways on that route?

Mr. Ligale: Mr. Deputy Speaker, Sir, Kenya Airways is a private airline. It is operated mainly between private shareholders and KLM. The Government of Kenya owns about 25 per cent of the share holding. Therefore, it cannot control.

Mr. Ethuro: Mr. Deputy Speaker, Sir, you heard the Assistant Minister, in his answer to part "b" of the Question, say that the increase in fare was as a result of the hike in fuel prices. Could he confirm this? A hon. Member of this House is responsible for the accuracy of his information. However, more importantly, even if competition is subject to market forces, we all know that when the East African Safari Express entered the market, it was deliberately undercutting Kenya Airways. However, after gaining entry, they doubled their fare. Could he confirm this? If so, what legal action will be taken against airline?

Mr. Ligale: Mr. Deputy Speaker, Sir, Kenya Airways, as a private airline, has the capacity of competing on the same route and putting on larger aircrafts. It should not allow itself to be undercut by the East African Safari Express.

Mr. Deputy Speaker: Well, Prof. Mango, are you okay? Could I move to the next Question?

Prof. Mango: Mr. Deputy Speaker, Sir, the Assistant Minister has spoken about the rise in fuel prices. Could he assure the House that when fuel costs go down, the air fares will also go down?

Mr. Ligale: Mr. Deputy Speaker, Sir, I cannot give that assurance because the airline is a private enterprise. Obviously, they will have to take that into account.

Mr. Deputy Speaker: Next Question by Mr. Wamwere!

MEASURES TO ENSURE TRANSPARENCY
IN AWARD OF CCK TENDERS

Mr. Wamwere: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Information and Communications the following Question by Private Notice.

(a) How many applications has the Communications Commission of Kenya (CCK) received the following market segments:-

- Internet backbone and gateway operator;
- International Commercial Very Small Aperture Terminal (VSAT) operator;
- National Commercial VSAT network operator;

- Public data network operator?

(b) Why have the applications been held in abeyance?

(c) What is the rationale of demanding a lumpsum of Kshs15 million for each of the above licenses?

(d) What measures has the Minister put in place to ensure that the process of awarding the licenses is done transparently?

Mr. Deputy Speaker: Hon. Members, the Minister for Information and Communications is not here. Therefore, this Question will be deferred. Could we get one of the hon. Ministers to ensure that the Minister for Information and Communications is informed? This Question will be put on the Order Paper for tomorrow afternoon.

(Question deferred)

Hon. Members, apart from that, I would like to congratulate Ministers for the manner in which they have answered Questions. We have virtually got answers to all Questions. As a matter of fact, if it was not for this one, the Chair would have given the Ministers 100 per cent marks for a well done work. So, this is an improvement. I would like to ask the Ministers to keep it up!

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Deputy Speaker, Sir, I undertake to inform the Minister for Information and Communications on this.

Mr. Wamwere: Jambo la nidhambu, Bw. Naibu Spika. Ningependa Bw. Spika ahakikishe kwamba Swali langu ambalo limetegewa nafasi kesho, litaulizwa. Hii ni kwa sababu kuna mazoea kwamba Swali kama hili likisukumwa mbele, lile ambalo lilikuwa limetegewa nafasi kuulizwa siku inayofuatia, linapoteza nafasi yake.

Mr. Deputy Speaker: Mr. Wamwere, that should not happen. This is a Question that the Chair has ordered that it be put tomorrow. I do not think it changes the order for the others. I think the Clerk has taken note of what you have said.

Mr. Deputy Speaker: There is only one request for a Ministerial Statement by Ms. Mwau.

POINT OF ORDER

ESCALATION OF RAPE CASES

Ms. Mwau: Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Office of the President on the issue of the 18-year-old girl, Grace Wairimu, who was reported in *the Daily Nation* newspaper yesterday as having died 25 days after she was gang raped. She died in Nakuru General Hospital after pleading to be set free. Actually she died of psychological and emotional trauma.

Two months ago Emily Gitonga also died in similar circumstances. There is a growing number of gang-rapes. So, could the Minister confirm if the rapists have been arrested? If so, have they been charged with murder? In view of the increasing number of gang-rapes, what are the Minister and the Police Commissioner doing to protect and curb insecurity---

Mr. Deputy Speaker: Ms. Mwau, that appears to be a very good Question by Private Notice! Is that a Ministerial Statement you are seeking or is it a Question?

Ms. Mwau: Mr. Deputy Speaker, Sir, I am seeking a Ministerial Statement as to whether the men who gang-raped Grace Wairimu have been arrested. If so, if they have---

Mr. Deputy Speaker: Order! I will advise that I will deal with that matter with you in my office. We will find a solution as to whether it is a Ministerial Statement or a Question. So, let us

meet in my office later and we will sort it out and then I will advise you accordingly.

Ms. Mwau: Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Order!

MOTION

WITHHOLDING OF SCHOOL CERTIFICATES ON ACCOUNT OF FEES BALANCES

THAT, noting with concern that students who have sat for the Kenya Certificate of Secondary Education (KCSE) Examination continue to be denied their certificates on account of school fees balance; aware that the bursaries allocated to the schools are inadequate to cater for all the needy students; conscious that academic testimonials are statutory requirements for career and job opportunities; and appreciating that schools require adequate funds to meet the cost of their maintenance; this House recommends;

(iii) that all certificates held by schools on account of fees balances be released forthwith and that no more certificates shall be withheld by schools on account of fees balances in future; and,

(iv) that the Ministry finds ways and means of compensating the affected schools.

(Mr. Musila on 27.10.2004)

*(Resumption of debate interrupted
on 27.10.2004)*

Mr. Deputy Speaker: Mr. Muturi had six minutes left to contribute to this debate. After he finishes his contribution, we will have Mr. Kamotho.

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir. Last week I was on my feet in support of this Motion. The KCSE certificates held by schools come about in the following manner. When a student, or a candidate, registers with the Kenya National Examinations Council (KNEC) a contract is thereby entered into between the student and KNEC. The KNEC hires invigilators who invigilate the examinations, hires teachers who mark the examination papers and uses schools merely as agents, so that examinations can be sat for. The schools, therefore, have absolutely no connection with the KNEC fees, which are paid by a candidate in order to sit for the examinations. Therefore, for schools to withhold students' results is a breach of contract on the part of the schools.

As I understand, and would want the Minister for Education, Science and Technology during his reply to challenge me on this, examination fees are paid into a clearance account of a school and forwarded to the KNEC. Indeed, if a student, who has taken enough subjects and lessons to satisfy the KNEC that they qualify to sit for an examination, is for whatever reason expelled from school, they are permitted to go and sit for the examination, the issue of school fees balances notwithstanding. Private candidates pay their fees to the KNEC and collect their certificates from the same council. Therefore, for schools today to withhold students' results on the basis of school fees balances, is a matter that is against the law.

(Mr. Deputy Speaker left the Chair)

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

I urge the Ministry to realise that it is acting in breach of the law. It should come up with a mechanism to ensure that schools do not permit themselves to be used as centres by students who want to write examinations. If the KNEC uses schools merely as agents, they should release certificates of students who sit examinations at them. There is no other contractual agreement between schools and candidates. With regard to the issue of certificates, a contractual obligation only exists between the candidate the KNEC.

Indeed, it is immoral for a school to deny students their certificates on the basis of school fees balances. With regard to the issue of certificates, the students have complied with all the requirements of the KNEC, which is to pay the examination fees. The council pays the people who invigilate, mark the examinations, and those who are involved in transporting examination material from the KNEC headquarters to the various points at which examinations are sat.

Mr. Temporary Deputy Speaker, Sir, it has been said that to support this Motion is to advocate for free secondary education. I think that the Minister for Education, Science and Technology should be proactive. He should come up with suggestions that will enable students who are only able to pay for examinations not to necessarily sit for them in schools. The schools ordinarily withhold certificates on the basis that they offer certain facilities to students. If a student pays for an examination, then the school, which is an agent of the KNEC, has no business withholding the student's certificate.

With those few remarks, I beg to support.

Mr. Kamotho: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this important Motion.

This is a national problem. It is not a problem affecting one particular area of this country. It is a problem that you find in every village of this country. Thousands and thousands of young people have completed education, but because of poverty they are not able to clear their school fees balances. The schools have taken a position that they will not release the certificates of such students owing to fees balances. If we look at the implications of such an act, we will find that it is a terrible national problem. I think the Government has to bear certain social responsibilities like this one, so as to ensure that students who complete their secondary school education and are unable to clear their fees balances get their rightful documents. If they do not get their documents, they will lose opportunities for further training like joining universities and other colleges, getting jobs and even improving their own lives. These children and their guardians spend days and months moving from one office to the other, seeing their Members of Parliament, their councillors, chiefs and DOs in an effort to acquire their certificates in order to pursue their careers.

Mr. Temporary Deputy Speaker, Sir, the Ministry of Education, Science and Technology should look into ways and means of alleviating this problem. This would be one major way of eradicating poverty. A lot of young people, particularly girls, are forced into early marriages against their will because they are vulnerable to many problems after school. However, if they get their certificates, chances are that they will develop their own careers and make their lives better.

The Ministry should take the initiative to do a thorough study to find out the number of ex-students involved in each district or school and the amounts of money involved and use all possible methods to save these young people from misery.

I am sure that the Ministry, with the goodwill it normally has from donors and non-Governmental Organisations (NGOs), can take this as a project and find out whether there is a way in which some organisations, or individuals, can assist to write off these debts owed by students to

various schools. In addition, we are now getting bursaries but they cannot be used to clear fees arrears. You can only use them for the current financial year. Therefore, the Ministry of Education, Science and Technology has a responsibility to find a way out of this particular problem. As I said earlier, girls' lives become extremely vulnerable after they pass their examinations. Some even meet the minimum requirements to join universities, but since they cannot access their papers, they do not continue with their education and they end up in very miserable lives and marry against their wishes. Could we, therefore, help these young people out of their misery?

What the Government can do is, first of all, to write off all the debts as a gesture of goodwill to the large number of young people roving around. Most of them end up becoming touts. They go to the streets because although they went through school and passed their examinations, they cannot access their final documents. Could the Minister, when responding to this Motion, tell the country what the Ministry has done to deal with this particular problem? Every year, a large number of young people comes out of schools. I have met many with grades of B, B- and B+ but, since they cannot access their documents; they do not continue with their schooling. A formula must be found to ensure that this problem is brought to an end.

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

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity. I would like to make some observations on this Motion, and say at the outset that there are two major concerns in this country. One is the question of withholding certificates of students who have left school. The other one is the question of detaining patients in hospitals because they cannot raise money to meet hospital charges.

I would like to speak from a legal perspective. First, I would like to draw the attention of the Ministry of Education, Science and Technology to the Children Act, No.8 of 2001, and in particular to Section 7, which says:-

"(1) Every child shall be entitled to education, the provision of which shall be the responsibility of the Government and the parent."

(2) Every child shall be entitled to free basic education, which shall be compulsory in accordance with Article 28 of the United Nations (UN) Convention on the Rights of the Child."

We do not have any legal choice whatsoever when it comes to the education of children. It is not the responsibility of the child to educate himself; it is the Government's and the parent's responsibility. This is a responsibility we cannot run away from! For the purpose of clarity, Section 2 of that Act says:-

"child" means any human being under the age of 18 years."

Quite clearly, this Act envisages a situation where the Government and the parent have to provide free and compulsory education up to Form IV. We know that this has not been actualised, but that notwithstanding we have to bear, at the back of our minds, that it will be a breach of our obligation under the law and a breach of Section 28 of the UN Convention on the Rights of the Child to fail to provide free and compulsory basic education.

Coming to the Motion, as it has been ably put here by Mr. Muturi, a child has no capacity to enter into any contract with a school. The obligation is between the Government and the parent on the one hand and the school on the other. The child, therefore, is an innocent human being in this process. No power or authority, in my view, can withhold a school certificate; the school leaving certificate or even an academic certificate. Doing so would be a breach of the law!

It is also important to bear in mind Section 18 of this Act which relates to torture and deprivation of liberty of children. It says, in part:-

"No child shall be subjected to torture, cruel treatment or punishment, unlawful

arrest of deprivation of liberty."

When you withhold a certificate, what are you doing to a poor child? Are you not subjecting this poor child to psychological and mental trauma? It will be a serious breach of Section 18 for anybody to withhold a certificate of a child.

(Applause)

Mr. Temporary Deputy Speaker, Sir, I am saying this for the benefit of the Ministry. I will also touch on another aspect of the law on the right to bailment.

If you take your car to a garage and you fail to raise the necessary charges to the owner of the garage after the car is serviced, the owner of the garage has what we call in law "the right of bailment." He can withhold your car until such a time that you are able to raise his charges. That cannot apply in respect of school certificates, because the child does not enter into a contract with the school. The child is a candidate facilitated by the Government and the parent to sit the examination. By the way, the examination fee goes to a statutory body called the Kenya National Examinations Council (KNEC). It does not go to the school. So, if anybody has any right of bailment, it would be the KNEC. It is the one which may fail to release a certificate until the fee for sitting of the examination is paid. However, the KNEC will not allow a child to sit their examination before the fee is paid upfront. So, the issue of bailment between the child and the KNEC does not arise. Therefore, in my view, there is no legitimate defence left for this particular Motion. What we should be exploring is the possibility of setting up a fund. I know that this is a very acute problem in boarding schools. The fees that we pay to boarding schools sustain the child by way of food and other necessary items. Parents who have already paid up their children's fees feel uncomfortable to have had to meet the expenses of other parents. That is the main dilemma we are in, and a solution has already been proposed; that we should move towards a direction where we have less boarding schools, because boarding schools are very expensive. We should invest in more day schools, because the expenses are much less.

We also have to explore the possibility of stepping up our Bursary Fund. Right now, it is quite inadequate. All of us are aware that we have serious financial constraints, but the question we must keep asking ourselves is: Is lack of finances a reason to get out of our obligation under an Act of Parliament passed by this House, and which binds us, as leaders of this country? Let us look forward to a situation where the bursary kitty can be increased to address the issues that boarding schools have to contend with in terms of buying food and looking after the general welfare of the child.

Mr. Temporary Deputy Speaker, Sir, in my constituency alone, there are over 600 students who have not collected their certificates from their former schools. They have missed several interviews. The Kenya Army and the Kenya Police have recruited new personnel, but those children did not attend the interviews because they could not access their certificates. They got other opportunities, but they lost them. That is why I referred this House to Section 18 of the Children Act. We are, indeed, subjecting these children to gross inhuman torture well after they have completed school.

As we deliberate this Motion, it is important for us to look at Section 4 of the Children Act, which says:-

"All institutions, private or public, must have the best interest of the child as their primary consideration."

It does not matter whether these are public or private schools. The principle that should guide us is to put the best interests of the child in consideration. The best interest of the child is that

the child must get the certificate as soon he has passed his examination and as soon as his certificate has been released by the KNEC. However, our priority has been that we want money first and foremost. This, in my view, is contrary to the provisions of Section 4 of the Children Act. It is the welfare of the child which must come first. It is not the welfare of the school or issues of money that should take precedence over the welfare of the child.

Mr. Temporary Deputy Speaker, Sir, if we read this Act in the proper context, the Ministry should not have a big problem in terms of handling the Motion before us. I believe that on the question of exploring alternative means of raising revenue, this House is ready and willing to do so. The Ministry should be asking this House to provide an additional Sub-Vote in the next financial year.

With those remarks, I beg to support.

Dr. Rutto: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

I rise to support the Motion because, in the long-run, the certificates belong to the children, and not to the schools. Neither do the certificates belong to the parents. When a certificate is withheld, it is not the parent or the Government or anybody else who feels the pain. The pain is transferred to the child. Denying a child his certificate is subjecting him to additional pain, because a child whose parents have not been able to meet the fees payment obligation is a child who has been suffering. He must have been sent home by the school on several occasions for none-payment of fees. So, by withholding his certificate, we are adding more pain to that child. That pain is not justifiable.

In most cases, children who are sent home due to lack of fees are bright. They are children who have not enjoyed the full benefit of education, because of lack of fees. They are children who are highly motivated. They want to work hard and achieve those certificates, so that they can uplift the standards of their lives in future. These are children who are most likely to be focused in their learning and career aspirations, but at the point where they are supposed to be reaping the benefits of education, we deny them the opportunity to realise their aspirations. That is the pain that such a child feels when he is denied access to his certificate.

Withholding a child's certificate is, indeed, shattering. When you withhold such a child's certificate, you continue to hurt him by causing him more pain. You also delay his career development. He cannot go anywhere to seek further training. So, in effect, we delay career opportunities for such a child selfishly, because we want fees paid for services rendered. That causes anxiety to this child. I can imagine how such a child feels when his certificate is withheld. It is so painful! It is unexplainable! Secondly, as Mr. M. Kariuki said, it is not the responsibility of that child to pay fees. When we withhold his certificate, we assume that, that child should be able to pay his own fees.

It is the responsibility of parents to pay school fees for their children. Holding the certificate of that child implies that we are holding him hostage. First and foremost, that is wrong and immoral. Why should schools hold children hostage for a responsibility that is not theirs? That is wrong. We should deal with the parents or the society responsible for that.

Mr. Temporary Deputy Speaker, Sir, the other reason why holding a certificate is wrong is this: I want to follow up the argument by Mr. M. Kariuki. It is an hinderance to the completion of the child's right of access to education. When we talk about giving a child access to education, we are saying that the child should go through the process of education in a complete sense. The child should go through it and enjoy the benefits thereof. When we deny a child a certificate, it means that we have allowed the child to walk the path of education and then, at the end of it, we begin to erase the footprints. In other words, nobody will ever know that, that child went to school, if we do not

give him or her the certificate. In my own judgement, erasing those footprints is against the fundamental rights of the child. It is brutal, unfair and an act of misplaced aggression against that child. The school is directing that aggression to the wrong person, instead of directing it to the parents or the society.

Mr. Temporary Deputy Speaker, Sir, arguments for withholding certificates have been put as follows: The first argument is that schools need to be paid for rendering the services. I agree with that. But the child should not be held hostage in that particular case because he or she is not responsible. To expect the child to do so is wrong. The other argument is that schools are going to collapse because the release of the certificates will send the wrong signals and encourage parental negligence. That may be true. But in most cases, children who suffer from such problems have other problems at home. They are needy and poor children. They suffer general negligence even at home. So, for schools to expect such children to pay school fees is wrong in the first place. That class of children, including orphans, are now surfacing in the society because of various problems. Some are orphans because their parents died of HIV/AIDS complications. When we withhold their certificates, we imply that they are responsible. First of all, they are very poor and needy.

Mr. Temporary Deputy Speaker, Sir, schools should have certain legal provisions for demanding monies from parents who are able to pay school fees. School fees are just like any other debts. They are debts similar to the ones that the school incurs while buying vegetables and cereals. There are very many ways of reclaiming such debts. Now, rather than passing the buck to the child, the schools should use legal avenues to reclaim those debts. The process of debt collection is very clear. It should be followed through the right channels which are acceptable in law. But passing the buck to the child is certainly wrong.

With those few remarks, I wish to support this Motion on the basis of those grounds.

Mr. Karaba: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity to give my views on the Motion. I would like to observe that, whether we support or oppose the Motion, we all should understand that, unless the Government comes up with a policy to say that education is free, we are going to create a precedent in this country which is going to cause a lot of problems now and in future.

Mr. Temporary Deputy Speaker, Sir, even during admission to secondary schools, some forfeit their places due to high fees. The check-list of required items is too long. It is even more expensive than termly fees. We note with a lot of regret that headteachers have been given the responsibility to collect school fees. Instead of thanking them for keeping the students in school, we are now giving them another burden of controlling schools.

I have been a principal for over 20 years. I am speaking from experience. It is not possible to imagine that somebody can enter Form I and continue schooling without the parents paying for the cost of maintaining that student in school. We have various vote heads like Boarding Equipment and Stores (BS). We have books which are bought by a vote head called School Equipment Scheme (SES). We have transport, caution, examination and other vote heads. What we need to ask ourselves is: Is it possible for somebody to join Form I and continue learning to Form II, Form III and Form IV without paying school fees and covering the syllabus? Doing examinations and passing is quite different from being in school.

It is also a requirement by the Kenya National Examinations Council (KNEC) that, as soon as you enrol in school, you should be taught. Therefore, you need to pay, so that learning can go on. You also need to pay levies that the Ministry and the Government have instituted. We have day schools where students pay less school fees. We have provincial schools which charge about Kshs22,900. We have national schools. For anybody to go to those schools, the parents or the community will know that they will pay a certain amount of money, depending on the school.

Therefore, it is not examination money that will make that student not to reach Form IV. It is the non-payment of those fees that will make that student not be taught in the school.

Mr. Temporary Deputy Speaker, Sir, unless we say that basic education, that is from Standard I to Form IV is free, we are going to create a problem which will later translate into violence and strikes. The students will demand to be given their rights and no learning will continue. Therefore, they will not get their certificates. We need to be very careful when we are discussing this issue. We can set a very dangerous precedent. It will even be dangerous for leaders. The moment we pass this Motion, the students will demand many other things to be done away with. They will not demand the certificates only. They will demand school fees to be abolished. Let us come up with other reasons as to why the children should remain in school without paying fees.

Mr. Temporary Deputy Speaker, Sir, it is the responsibility of the parent to make sure that his child goes up to Form IV, sits for the examination and from there, gets the certificate. If we do not do that, we will have a situation where students from private schools will be joining national and provincial schools. The same students will join universities and the majority of the students in public schools will not have access to higher institutions of learning just because they will not have been taught. The Kenya National Examinations Council (KNEC) requires students to cover the syllabus within the stipulated period. I am, therefore, asking hon. Members to understand the dangers that we are discussing here. We are discussing a situation which is very volatile, stormy and which can lead to even schools closing down. Let us be fair to one another. Let us see to it that even headteachers have an obligation to run the schools. When they demand that school fees be paid, it is the responsibility of the parents to pay. If we agree that the examination fees should be paid by the Government, that is good enough. After all, the Government can afford to offset and waive this Vote. The examination fees is only Kshs3,350. If the Government can afford to pay that, that will be fine. The balance should be paid by the parent, so that students can be taught in schools. Students must have books and also somebody to cook for them. All these translate into money. We cannot pretend that we do not know what happens after students sit for their KCSE. We are going to have a lot of problems created by the same boys and girls in schools, many schools will close down and cases of violence will increase in our schools.

Mr. Temporary Deputy Speaker, Sir, if we have to do away with school fees, there is something else that the Government should do. Headteachers should not be responsible for collecting the examination fees. It should be collected by the Kenya National Examinations Council (KNEC). Headteachers should only handle school fees. The moment you mix the two, you bring in the legal implication. The headteachers are not supposed to collect the examination fees. This money goes to the KNEC. Let us be focused. Let us be accurate and save our children from even further harassment by nature.

In the past, we used to get grants from the Government. Why can the grants not be re-introduced, so that they can be given to certain schools to cater for school fees, examination fees or even other fees? This is possible if Parliament can enact such a law here. You will note that we are trying to liberalise education. This is going to be dangerous and it might even land all of us into problems. I am, therefore, suggesting that we improve day schools to absorb bright students who cannot afford the fees charged in boarding schools. The examination fees should not be imposed on these students and the non-payment of the same should not be used to stop the students from sitting for the examination. What would happen if headteachers refused students to go to Form II because they did not pay school fees in Form I? The headteachers and the parents should understand one another, so that an amicable solution is found to settle this problem.

With those few remarks, I beg to oppose.

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, I am glad that I, at last, caught

your eye. I want to sincerely support this very timely Motion by Mr. Musila. I view the issue as a national wide problem. It is a problem that is affecting people both in urban and rural areas in this country. I would like to point out a number of issues that relate to this Motion.

Basing it on the real life experiences by communities in this country, we realise that headteachers are given the sole discretion in this particular matter, and not even the Boards of Governors (BoG) members in these schools are able to exempt students from paying school fees. This has been a very big problem as clearly outlined by a number of speakers before me. We very well know the economic hardships this country has faced, but it depends on what this Government feels should be a priority for it. The Ministry of Education, Science and Technology should empower the BoGs more than the headteachers. There must be some mechanisms in which poor students can be exempted from paying school fees. Communities know themselves and schools belong to the communities. The Ministry of Education, Science and Technology must respond to the needs of these communities. If they listen keenly and understand the environment under which the Ministry operates, then they should realise the problems communities are facing in this country. We must set a mechanism that empowers the BoGs.

Mr. Temporary Deputy Speaker, Sir, way back in the 1960s and 1970s, when there used to be free primary education in accordance with the KANU Manifesto, although the NARC Government is telling us that it has provided free primary education now, there used to be some mode of exemption, which they used to call remission. We must try to give remissions to poor students who cannot raise school fees. Bad debts resulting from loans owed by the farmers have been written off. Loans owed to the Agricultural Finance Corporation (AFC) were also written off. Exempting students from paying school fees will equally contribute to the economic development in the future because education has a strong relationship with economic development. It will develop a human resource pool in this country, which will eventually contribute greatly to our economic development.

The Ministry of Education, Science and Technology has kept mum when a number of students have failed to be registered because of the ineptitude of some of the headteachers in this country. They are not quick enough to support students to get their certificates from secondary schools. The KNEC has kept on changing examination systems. They have changed from the East African Certificate of Education, which some of us did, to the Kenya Certificate of Education and to the KCSE now. With time, graduands of the old systems will not be able to compete effectively with graduands who have gone through the recent system of education. They did not get their certificates in time. This has denied very capable students the opportunity to get golden opportunities.

Mr. Temporary Deputy Speaker, Sir, if bursaries are not sufficient, it is the responsibility of the Government to establish trust funds or endowment funds, where through the Government, communities and other partners can remit their contributions. There are so many Non-Governmental Organisations (NGOs) and other donors who have always contributed towards education in this country. The main question is: What is the priority of the Ministry of Education, Science and Technology? We may invest so much on free primary education, but if we do not plan ahead, what will happen? If pupils will pass their examination and fail to get their certificates, what will happen? Will they join secondary schools?

Mr. Temporary Deputy Speaker, Sir, I do not intend to continue for long. But I want to say, this is a timely Motion, although it has delayed so much. We look forward to the Government, especially the Ministry of Education, Science and Technology, to ensure that the needs of the marginalised communities and of their innocent children are taken care of.

With those few remarks, I beg to support.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, really, to withhold a certificate, is a very extreme measure, particularly because a child will have spent his or her life aiming to get it. We all know that examinations are very stressful. So, once that child has spent all those years in school, sat for the examinations and then the certificate is withheld because of a balance of school fees is a too extreme a measure to be supported by this House. So, I do agree with those who have expressed the view that no certificate should be withheld on the basis that there is an outstanding balance of school fees.

Every time I go to my constituency, I am always confronted by parents and their children whose certificates are being withheld and, therefore, they cannot join tertiary institutions. Some are offered jobs, but they cannot take up those job opportunities because the prospective employers or tertiary institutions want to see the certificates. So, the withholding of certificates is an action which is destroying the future of children, particularly those who have done well in school.

Since this Motion appears to have bi-partisan support of the House, I would ask the Ministry of Education, Science and Technology to implement the decision of this House if the Motion is carried. It does not require any regulation. If the Ministry, as it should, respects the views of this House, when this Motion is carried, then they should send a circular the same day to all secondary schools, instructing the headmasters not to withhold the certificates. In addition, the Ministry should report back to this House. By so doing, this House will be seen to have authority and teeth. This is not one of the Motions that should be passed and then be permitted by the Ministry to gather dust in their shelves. I would plead with the Mover, Mr. Musila, to follow up on this matter if the Motion is carried. He should demand to be told by the Ministry the progress with regard to the implementation of the resolution of this House.

Having said that, I do wish to support the sentiments expressed by Mr. Karaba, the Member of Parliament for Kerugoya-Kutus. The Ministry of Education, Science and Technology needs to rationalise its management of education and education policy, because it is true that we are placing impossible burden on headmasters. On the one hand, the Ministry is not providing adequate funding for the running of our schools. On the other hand, the Ministry does not want pupils to be sent home. So, the person who is placed in a very awkward and impossible situation is the headmaster. The Ministry must know that, if the headmasters will continue offering quality education to our children, then we must build additional classrooms. There are all sorts of expenses, including trips and laboratories. The parents have to provide for this. We cannot sustain education on the basis of Harambees. It is the primary responsibility of the parents with children in a particular school to meet the cost of education of their children. So, this situation where headmasters, even where they are supported by the Parents-Teachers Association (PTA), are told they cannot do this or that, is impossible. One can easily see why the headmasters are taking this extreme step of withholding certificates. It is in an effort to raise funds to be able to expand the schools.

Yes, the free primary education is a good policy. But because of the number of pupils who are now joining primary schools, we need to build additional classrooms. There are all sorts of other things that are needed and they all cost money. So, I am asking that there be a rationalisation by the Ministry. I know it is one of the Ministries to which a lot of money is devoted in the Budget, but it is not adequate. I appreciate that the economy needs to grow, so that we can afford these things. But could the Ministry think through this thing because it is giving very contradictory instructions to the schools?

One of the schools in my constituency wants to do a Harambee in order to construct additional classrooms to cope with the population of students. However, the school has been told it cannot do it and they must not ask parents to pay any money, and yet, the Government is not providing enough money. So, we are in this awkward situation. How are we going to ask the

headmasters, teachers and parents to cope? I think we need to be flexible and pragmatic. Where the headmaster has sat down in a meeting with the parents and the parents appreciate that there is need to build a laboratory, buy equipment or books, for example, which are not being funded by the Government, he should be allowed to do so. They can involve PTA, the headmaster and the education officers in the division. Once they ascertain that it is a genuine case, then the headmaster and the PTA should not be stopped from imposing a particular agreed levy on the parent of each of the pupils. That way, we will be pragmatic and balancing out things. But I do agree that we must no longer support this policy of withholding certificates because, once certificate are released, then the school and the headmaster must be able to follow that student. When the student is offered a job opportunity, for example, he or she is then in a position to pay in instalments. But once schools withhold the certificate and they deny the student that job, then the money will not be paid anyway. Allow that student to be employed, follow him or her efficiently, and go to him or her and say: "Now that you have got a job and you are being paid a salary, please, start paying in instalments." Let us be pragmatic. It is the same awkward reasoning that you see with the Ministry of Health. People are treated at Government hospitals. They get well and are discharged, but they cannot be allowed to go home because they have not paid the balance of the hospital fees. So, the patient continues to occupy a bed that would have been occupied by other patients. Holding the patient does not bring money. It is better to allow the person to go and then let them pay in instalments.

Therefore, I support this Motion strongly. I ask the Ministry of Education, Science and Technology to rationalise, give more money to schools and allow parents to raise funds with the involvement of Divisional Education Officer, but not withhold the certificates. We want to see this implemented forthwith.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I now call upon the Government Responder to make her remarks.

Proceed, Mrs. Mugo!

The Minister for Education, Science and Technology (Mrs. Mugo): Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to respond to this Motion on behalf of my Ministry. Let me thank all the hon. Members who contributed to this Motion because it shows clearly their concern over our Ministry and the education sector as a whole. However, let me also call upon the hon. Members to be responsible in what we call for. We must look forward beyond what we are saying, because, sometimes, we say a lot of things for political gain.

We, as the House, give money to the Government after the payment of taxes. We divide the money among the Ministries. At the moment, the Ministry of Education, Science and Technology has been given priority. Some Ministries are running with very minimal figures. I would like this House to give more money to the Ministry of Education, Science and Technology. We are talking about noble things which I, myself, believe in. We should go further and say which Ministry will have its money reduced. That is because the money must come from somewhere. If we invest more in education--- Right now, my Ministry is given Kshs90 billion. Some other Ministries are not given even Kshs1 billion! We have already shown that we care about education by giving it a lot of money. The Government is also giving a lot of money to education. I believe that planning is what is called for.

The Ministry's hope and plan is to realise free primary and secondary education in future. We will bring a Sessional Paper containing the recommendations of the symposium on education which took place last year. It will also contain the new vision and reforms in the education sector. It will be brought to this House for debate and passing.

Mr. Temporary Deputy Speaker, Sir, in doing so, the Ministry must also plan its finances.

This House is well aware of the finances that have been voted to the Ministry. Since the NARC Government came to power, the Ministry of Education, Science and Technology has seen many changes. We have implemented the free primary education at a very high cost. It is something that even former Ministers of Education, Science and Technology in the previous Government had said was not possible. I heard them speaking here earlier on and requesting us to make secondary education free. That is what this Motion implies.

Mr. Temporary Deputy Speaker, Sir, it is our intention to do that. When free primary education was implemented, we had to put in a lot of money to pay the teachers. We paid them salaries and increments that were not paid by the previous Government for a very long time. We are now paying the teachers the salaries that were agreed upon earlier, but which were never honoured.

We have also raised the salaries of university dons. That is also something that was never done by the past Government, which included some education Ministers who have been very vocal on this Motion. In fact, on the issue of certificates, we are suffering because people became so poor and some of them could not afford to pay school fees. That was caused by who? So, now, the NARC Government is being told: "Do this! Do that!" This Government has done quite a lot in a very short time, especially my Ministry. Each child across the nation receives Kshs1,020 every year. There are very many children. On top of that, we send Kshs153,000 to special institutions for children living with disabilities.

There is also monitoring of free primary education and quality assurance. Just two days ago, we released motorbikes to all districts to be used by school inspectors. Our inspectors have not been supervising schools properly. We must improve quality. We also gave every Provincial Director of Education (PDE) and District Education Officer (DEO) a four-wheel drive motor vehicle to carry out quality assurance. In Arid and Semi-Arid Lands (ASALs), we have maintained boarding primary schools and provided all other facilities to the schools. We have also set aside funds to support education in those areas and poverty reduction.

Mr. Temporary Deputy Speaker, Sir, if a Ministry does not plan, it is courting disaster. Today, if we say that poor students must be given their certificates, parents will stop paying school fees. Even those who are able to do so will stop. There is no way of ensuring who will pay and who will not. It is because of that, that school Boards of governors and principals maintain that parents are responsible for their children until they reach the age of 18 years old. They pay school fees. That action is directed to the parents and not the students.

Mr. Temporary Deputy Speaker, Sir, if we say that everybody will get their certificates when they finish school and no one will pay for secondary education, I can assure this House that it will collapse. That is because there is no money that has been set aside for it. I appreciated this Motion when the Mover said that secondary schools must run. It is contradictory because secondary schools cannot run unless parents pay school fees. Whether we quote the economy or say that money will come from our development partners, that is what the Ministry is planning for. Please, give the Ministry time to plan its timetable of that implementation. Already, we have been assured of funds by the African Development Bank (ADB) to support infrastructure in our secondary schools. That is why we have instructed our head teachers not to increase school fees. We will support the balance. There will be no school fees increments.

Mr. Temporary Deputy Speaker, Sir, some Members have said that children cannot go on with life when their certificates are withheld. That is not true. I would like to inform this House that, any student who has gone through our institutions of higher learning and is seeking employment, can write to the Kenya National Examinations Council (KNEC) and the results will be confirmed to the employer. So, any child can be admitted into any institution or get employed because the results are not withheld. So, it is not absolutely true to say that the child is being punished.

However, should that happen, inform my Ministry, so that I can, personally, pursue that problem. It should never happen. The results are never withheld. They should be communicated to the institution in question.

Mr. Temporary Deputy Speaker, Sir, I am also of the opinion that bursaries should be increased. The Ministry supports that idea. We should be able to give out more bursaries. However, of course, that will depend on the Government's kitty; what the Exchequer will afford to give to each Ministry. We have requested that more bursaries be given out.

With regard to the girls, we have an affirmative action principle applying in the allocation of bursaries. Hon. Members who sit in the Constituency Bursary Committee (CBC) are supposed to make sure that the girl-child gets 5 per cent higher than the boy-child. We are doing everything we can on our part. Hon. Members should also provide leadership in the CBC.

Mr. Temporary Deputy Speaker, Sir, the boards that run the schools are empowered to provide management of schools in the best way possible. If there is an orphan or a very poor child in a school, the Ministry does not prohibit the board--- By the way, let me correct that remark. There are no poor children. All children are equal. However, if there is an orphan child whose fees cannot be paid, the board can assist. In any case the school boards know all the children who are admitted in those schools. They even know the parents. The Ministry does not prohibit them from cancelling the fees and releasing the certificates. So, if there is a child who is an orphan or who comes from a very poor home, assistance can still be obtained from the board that runs the school. However, not all widows and widowers are very poor. There are children who have both parents and yet worse off than children who belong to the widows or widowers. We do not impose anything.

It will be very irresponsible of us if we passed this Motion, knowing too well that it is not implementable. We must have funds to run the secondary schools. If we were to pass this Motion today, 80 per cent of parents or guardians will not pay fees. We know our people. What I am saying is a fact. Parents will know that at the end of the day, they will still get the certificates. I would like to learn from hon. Members what they intend to propose. With regard to legal redress, you cannot say that you will go to court with parents of your students every day asking for school fees. That is not a realistic suggestion. I want to implore on this House, since we all care very much, to relook at this Motion.

I care very much myself. I have been in the forefront, fighting for the education rights of children even before I was elected to Parliament and became an Assistant Minister for Education, Science and Technology. I had set up the Dagoretti Education Fund which I run with dedication. I even asked my friends and the community in Dagoretti at large to contribute towards the fund. I know these children belong to us. We cannot say that the Government can bear the whole responsibility of running schools. The Act, rightly referred to by the hon. Member for Nakuru, is very clear. Education is a responsibility of the Government and parents, but not the Government alone. For a child who cannot make it, we have the bursary fund. If that money is used properly without corruption and the needy children are identified, it would go a long way in supporting needy children. However, there is a lot of politics involved in the award of bursaries. People want to know who is getting what and who is supporting who. Let us support all the children in our constituencies without considering where they come from. The first and foremost condition is the needy state of the child.

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

[The Temporary Deputy Speaker

(Mr. Poghisio) took the Chair]

We have two hon. Members in this House who, at certain times, served as Ministers for Education, Science and Technology. If they were to be honest, they should be able to say that this time round, the Ministry has done a great deal in giving school children free primary education. It is important that Kenyans become literate. The first step towards achieving universal literacy is by providing free primary education. The Government is not planning to stop there. It is also planning to give every Kenyan child, at least, secondary school education. I want to urge this House to support the Government's efforts by not allowing secondary school education to collapse. We should strengthen free primary school education because by so doing, we shall be strengthening secondary school education. We must adopt a systematic way of development.

Mr. Temporary Deputy Speaker, Sir, with regard to Harambees, it is quite clear. I want to tell hon. Muite that nobody is allowed to contribute---

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

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I withdraw.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, we are in the House. *Na hili jambo tutapitisha.*

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I want to inform the House that teachers know what to do when they need to raise funds. The Parents-Teachers Associations (PTAs) have to agree on the idea. Whoever has given the hon. Member the information that he has, has not told him the truth. An application should be made to the Ministry seeking permission. The only thing we insist on is that no child should be sent home simply because the parents were not able to give out the requested amount of money. We totally reject that because it is the same poor child we are speaking for here, who will be sent home first. The truth of the matter is that PTAs can organise to raise funds. The Ministry insists that no child should be sent away from school because the parents or guardians have not paid towards the fund. So, it is not quite correct to say that we have prohibited the PTAs from collecting funds.

Mr. Temporary Deputy Speaker, Sir, a bigger portion of our Ministry's budget, unfortunately, does not go towards development expenditure. It goes towards recurrent expenditure because of the many teachers we have to pay salaries. There are so many teachers we are maintaining. Indeed, we have honoured their salary increments. This House has to look for ways and means, through the Departmental Committee on Education, Research and Technology on how to change the *status quo*. A lot of money is not channelled towards development of schools and that is why if children were to stop paying fees, there would be no money to develop the schools.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! It is now time to call upon the Mover to reply.

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, first, I want to thank the hon. Members for their very positive contribution to this Motion and for supporting it wholeheartedly. I also want to thank members of the public because since this Motion was moved last week, I have received a lot of letters from members of the public supporting it. I just want to read one paragraph from one of these letters from Machakos. It reads as follows:-

"Many parents will not be able to meet their fees obligations. I know a parent whose child has fees deficit of Kshs56,000 and the child is in Form Four. Surely, that parent will not make it. The procedure followed by many schools is that the child will not be

given result slips and leaving certificate. It would have been better if that child never went to school."

That letter is from one of the parents. I am not very surprised by the response that has come from the Ministry of Education, Science and Technology in that they have opposed this Motion which is so fundamental. I said I am not surprised because since April this year, I have been asking the Ministry of Education, Science and Technology to give me facts and figures concerning the number of children whose certificates are held by schools, but they have refused to give me this information, despite many reminders. I think it is a shame, considering that the Ministry of Education, Science and Technology is headed by Prof. Saitoti who is a well known professor. I am surprised that the Minister who was recently appointed to the so-called "Equality Dream Team" can come up with the kind of response that has been read by the able Assistant Minister.

I think it is a shame because what role will Prof. Saitoti play in that dream team if he cannot see the need to correct this inequality that is going on in schools in this country? It is a shame that students from secondary schools are seated in the Public Gallery, most of whom are suffering from this problem and the Ministry has the audacity to give that kind of response. I expected the Minister to stand up today and announce that principals of schools are ordered with immediate effect to release certificates that have been withheld. I am very disappointed and I am sure hon. Members are equally disappointed.

Mr. Karaba made some useful contributions to this Motion when opposing it. He repeatedly said, and I quote:-

"It is the responsibility of the parents to pay fees."

I do not deny that fact. We know it is the responsibility of the parent to pay fees. We also know these parents have not paid fees because of their inability to do so. With respect, I want to urge hon. Members to realise that there are certain communities who are so poor that they cannot afford school fees for their children. I hope that with time, hon. Members will realise this position.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to apologise that the Ministry did not give the figures when the hon. Member requested them. We took time to collect them from all the provinces and I would like to table the list.

*(Mrs. Mugo laid the documents
on the Table)*

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I allowed the hon. Assistant Minister to respond and I did not interrupt. But this document that is being laid here is addressed to the Director of Education from somebody called EO/AAI. I do not know who that is. It is not addressed to me. This is really a photocopy of a document which is an inter-office communication. That shows the contempt with which the Ministry of Education, Science and Technology holds Parliament.

It was stated on the Floor of this House that it is not true that children cannot access higher education because they have no certificates. The Assistant Minister said that when people are given jobs, they should write to the examinations board and ask for their certificates. When a child has gone to a field and they are running to get positions in the army or administration police, they normally ask for original certificates immediately. Will that child leave there and write a letter to the examinations board so that the certificate may be released? Let us be serious. We should know that we are treating poor children improperly.

I want to raise three issues. There are legal and human rights issues here. Under Section 4 of the Children Act, all institutions, public or private, shall have the best interests of the children in

their consideration. Secondly, is the debt of a child to the school which remains unpaid for ten years enforceable by law? Is withdrawing a certificate or refusing to give a certificate on account of unpaid fees to a child who has rightly earned it by passing his examination legal?

I know hon. Members are supporting this Motion and they will pass it. I have been asked to follow it up and I want to assure hon. Members that I will do the following: First, I want to send this appeal to President Kibaki, to look into this matter and overrule his Minister on the matter of releasing certificates. I know the President is a compassionate man and that he will immediately order the certificates to be released, even if the Minister for Education has refused to do so.

Secondly, in the New Year, God willing, I will bring to this House a Motion to seek leave to bring an amendment to the Education Act to prohibit the Ministry of Education, Science and Technology from withdrawing certificates from children in future. I want to tell parents of this country to take heart. This House will pass this Motion. If the Ministry of Education, Science and Technology will not implement it, we have a President who is compassionate and he will order the release of these certificates. If he fails to do so, this House will pass an amendment to the law early next year to prohibit the withholding of these certificates.

With those remarks, I beg to move.

(Question put and agreed to)

CONSTRUCTION OF DAMS TO CONTROL FLOODS IN THE COUNTRY

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, in view of the annual recurrence of floods and consequent destruction of crops, livestock and loss of human life around Lake Victoria Basin, the coastal areas and other parts of the country; aware of the need to harness and use the flood waters for improvement of food production and water supply for human consumption and the need to have a permanent solution to this disastrous annual occurrence using the available appropriate technologies; this House urges the Government to dam rivers Nyando, Nzoia, Yala, Kuja and Migori with a view to controlling the flow of water and utilize the dams for irrigation and fish farming as a contribution to self-sufficiency in food production in Kenya.

Mr. Temporary Deputy Speaker, Sir, as you are aware, the problem of floods is a permanent feature in this country. Floods are caused by water, which is a resource in food production, generation of electricity and leisure. In this country, we have waters in rivers, lakes and oceans. However, these waters are not used for the welfare of the people, but become a disaster in our country, year in, year out.

In the world, a country like the Netherlands, with well managed water, the flood plains produce a lot of food. The production per square kilometre in the Netherlands is so high. If you compare the production in that country with ours, you will find that it is more than ten times. Planning in this country is done upside down. This is because planning for production of food targets subsistence farmers and not for commercial gain by the peasants. Because of this, it is necessary that serious planning towards the utilization of our water resources is done. I come from Lake Victoria, which has many rivers which flow into it. Lake Victoria is a big dam. This lake is the second largest fresh water lake in the world, and yet our area is the poorest in this country. It is a paradox that we languish in poverty when we have a lot of water.

A country like Israel, which imports water, produces enough food for its people and in

addition, exports some. If a country imports water and uses it to produce enough food to feed its people and export some, what are we doing with the enormous water resources which we have in this country? We have rivers and lakes in this country. In any construction, it is well known that damming is the most expensive venture when it comes to irrigation. In Lake Victoria, we have a God-given dam, which does not need any money to construct. We just need to pump that water to higher grounds, use it for irrigation and produce enough food to feed our people. If a Government, year in, year out, imports food and is unable to provide its people with enough food, and yet the country receives enough rains and has good soils, it has no business governing because food is a fundamental human right. People are entitled to eat and to be fed. Strategies must be put in place to make sure that the country produces enough food using our water resources.

I brought this Motion because the occurrence of floods in this country has become an annual event. There are very short intervals between the floods. Yet, every time, when floods occur, they are treated as emergency. How can you have an emergency which you can predict? When you have such occurrences, it is necessary that planning measures are put in place to get a permanent solution to that problem. The purpose of this Motion is to urge the Government to find a permanent solution to this problem. We know that the Government has been taking some measures to try and control the floods. But those are haphazard measures. When you construct dykes on river banks, you are temporarily preventing siltation. When you construct those dykes and leave them without maintenance, they become dilapidated within a very short time and flooding continues as usual.

It is, therefore, necessary that apart from these half-measures which have been taken to try and control the flooding of these rivers, a permanent solution must be found. This includes working together with the local communities. The local communities should be sensitised in environmental management. They should be taught how to maintain firm riverbanks. They should be told to plant trees to protect the river beds. The local communities should also advise the Government on the best way to deal with those floods. Some of these communities have lived in those areas for a long time, and they know how to control them. But it appears as if the Government is not working very closely with these communities, and it is only targeting subsistence farming. As a result of the recurrence of floods every year, people in the flood-prone areas have become poorer and poorer. They are even dying from poverty-related illnesses, leave alone the floods. They cannot afford medicine. When floods occur, there are outbreaks of water-borne diseases.

Mr. Temporary Deputy Speaker, Sir, the floods that destroy property and lives should be converted into an asset for this country.

Mr. Temporary Deputy Speaker, Sir, the Government must also develop an early warning system, so that people are not caught unawares when floods come. Year in, year out, floods come and kill people and one would think that, perhaps, when the next floods come, people will be warned in advance, so that they can take care and move away from the flood-prone areas. It appears as if there is no scientific information from the Meteorological Department to give prior warnings to the communities living in the flood prone areas. What happens is that whenever floods occur, the damage caused to these communities is disastrous. It is so great and yet, no warning information is given. This is something which is very disturbing.

I do not know if the technology used during the colonial times was more advanced than the technology now. The Meteorological Department then used to give very correct and precise prediction of the weather. Farmers used to know exactly when the rains were coming; if they would be heavy and exactly what date to plant. That has now disappeared from the Government calendar. Things like heavy rains or floods just come as if they are accidents, and as if there is no possibility of predicting or foreseeing what will happen in a few months or a shorter period of time, to enable people take care of themselves and move away from the flood-prone areas.

Mr. Temporary Deputy Speaker, Sir, the people in these areas are very vulnerable because of poverty. The type of houses they construct are mud grass-thatched units. These houses are not constructed in a raised manner, which can help them survive even in a small manner when the floods occur. So, when these floods come, they just sweep people with their property because of lack of sufficient resources to construct houses which can withstand the pressures of water. As a consequence of this, people lose food, crops and livestock are destroyed. Unfortunately, people also lose life. This is something which has been happening year in, year out, particularly in River Nyando which bursts its banks every year.

Mr. Temporary Deputy Speaker, Sir, the Government has some policy to increase food production. How do you increase food production when we depend on rains? We have waters which are flowing free, some through the rivers around Lake Victoria to Egypt. Egypt is producing so much food that they are even exporting food to Kenya. What is the Government doing with the policy of increasing food production when irrigation schemes which are supposed to give reliable food production like the Bura, Ahero and Bunyala irrigation schemes have all collapsed just because of mismanagement and there is very little money which needs to be spent to revive them? For example, Ahero Irrigation Scheme just requires repair of the pumping equipment. This policy of increasing food production, I would like to contend, can only be effective if the Government takes seriously the issue of irrigation and puts sufficient funds to encourage irrigation in the collapsed irrigation schemes, and even create new irrigation schemes, so that we can have enough for food and also contain floods which destroy our property.

Mr. Temporary Deputy Speaker, Sir, another policy of Government is to increase or intensify cash crop production. In the same manner, cash crop production is important. Now, AGOA has allowed Kenya to export as much cotton and cotton material as possible. Kenya buys cotton from Tanzania, Uganda and even India, and exports it to the African Growth and Opportunity Act (AGOA) market. This is soon going to come to an end. The rule of the "origin" will soon come into play. Once it comes into play, Kenya will be kicked out of the AGOA market. We must take the issue of producing cash crops, such as cotton, very seriously. We have very good soil and rainfall which might not be enough, but is reliable. We have a lot of water that goes to waste during rainy seasons. We could harvest this water and use it to produce cash crops which will earn us money that will elevate our people from poverty. We also need to produce raw materials for industrial purposes. However, how do we produce raw materials when we are not using our land properly?

I do not want to dwell on Government policies. I want to urge the Government to support this Motion because it will serve several purposes. First, it will help this country produce sufficient food for its people, which is a primary responsibility of the Government. This will help our country to be self-sufficient in terms of food production and, therefore, restore our dignity. We cannot beg for food which satisfies a basic need and claim to be dignified people.

Secondly, if the Motion is passed, it will help the country generate income and create employment opportunities, reducing poverty levels in this country. It is also going to help this country stop being over-reliant on weather. Weather is controlled by God. However, God has given us water. Why can we not use this water, instead of relying on rain? This will help us to stop being over-reliant on rain. If the Motion is passed, it will help us to stop importing food.

(Mr. Wario stood up in his place)

I beg to move and ask hon. Wario to second the Motion.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wario, you stood up when Dr.

Oburu was still on the Floor.

Mr. Wario: Bw. Naibu Spika wa Muda, ningependa kukuomba msamaha kwa kosa hilo. Ningependa kumpongeza na kumshukuru mhe. Oburu kwa kunipa nafasi hii ili niunge mkono Hoja ill iyo mbele yetu. Mafuriko ni janga la kiasili. Ni janga ambalo hatari zake Wakenya wengi wanazijua. Wakenya wengi wamepoteza mali nyingi kama vile wanyama, karakana za maendeleo, kuzoroteka kwa uchumi wao na pia watoto kukosa kwenda shule. Hazi ni baadhi ya hatari za janga la mafuriko.

Ni vigumu kufahamisha kila mtu kuhusu matatizo ya mafuriko. Sisi tunaotoka katika sehemu zinazokumbwa na mafuriko tumelia kwa siku nyingi tukiiomba Serikali iwe na sera ambazo zaweza kulipiga vita janga hili. Maji haya yafaa yanaswe ili yawe na faida kwa watu wa Kenya.

Bw. Naibu Spika wa Muda, kuna kiasi kidogo cha faida inayotokana na mafuriko. Kule kutembea kwa maji kutoka sehemu moja hadi nyingine huleta mchanga wenye rutuba. Baada ya mafuriko kwisha, uzalishaji katika sehemu rutuba inakobaki huwa tofauti na ulivyokuwa awali. Natumai kuwa wanaofanya utafiti na Wizara ya Mipango na Maendeleo ya Taifa wataangalia ni vipi mafuriko yatakuwa ya manufaa kwa Wakenya, badala ya kuleta vifo vya kila mara.

Ni sikitiko kubwa kuona kwamba hakuna sera mahsusi iliyobuniwa na Serikali wala mbinu maalum ya kupambana na mafuriko, licha, ya kuwa miaka 40 iliyopita maafa kama haya yalikuwa yakitokea kila mara. Tuna Wizara ya Mipango na maendeleo ya Taifa ambayo ni kubwa na inatumia mabilioni ya pesa. Kazi yake ni nini ikiwa kila kukicha mafuriko yatakuja kumaliza mifugo na watu wetu? Baada ya maafa, Serikali hupakia lori mahindi na kuwapelekea watu. Hii haiwezi kuwa suluhisho! Tunataka suluhisho la kisera na kikatiba katika nyanja mbali mbali. Ikiwa ni leba au mazingira, ni lazima tuwe na mbinu za kupambana na mafuriko katika sehemu zote za nchi. Tusiwe tu tunawatuma vijana wa Huduma ya Taifa au wanajeshi wakati watu wetu wamekufa. Hii ni kwa sababu wakija, wa kufa washakufa na hakuna wanachoweza kusaidia wakati huo.

Maafa haya yanachangiwa zaidi na kutokuwa na habari zifaazo mashinani. Tunao wanasayansi ambao hutabiri kila siku, lakini habari zao hutolewa kupitia redio na runinga. Hawana habari kuwa kuna Wakenya wasiomudu kupata redio wala runinga. Ni lazima kuwe na mbinu zifaazo ili habari hii ifike mashinani na vijijini kuwa wakati fulani kutakuwa na mafuriko, ili anayeishi karibu na mto aende mbali nao. Mawasiliano kama hayo hayamo kati ya mwananchi wa kawaida na wanayansi.

Nilifikiri kuwa Serikali ingewajulisha Wakenya kuwa sehemu fulani ni za mafuriko. Hizi ni sehemu zinazojulikana wazi na Serikali inajua inastahili kufanya nini. Tunashangaa leo kuwa maafa baada ya mengine yanatokea, na ni kama Serikali inangojea kwanza watu wafe ndipo malori yapakiwe wanajeshi na kupelekwa katika sehemu za mafuriko. Ni lazima tuabadilishe mtindo huu!

Bw. Oburu amesema kuwa Waisraeli hukodisha maji kutoka nje. Kwa nini maji yanayoingia baharani kila mwaka yasinawe ili yatumiwe kwa miradi ya unyunyiziaji mashamba maji? Maji hayo yatakuwa na faida badala ya kumaliza watu.

Ningeomba Wizara ya Mipango na Maendeleo ya Taifa kulitua swala la mafuriko. Mafuriko yameleta hasara kubwa, kama uraribifu wa karakana za maendeleo na kuzoroteka kwa vitengo vya kuichumi. Hasara hii ni kubwa sana na Wizara ya Mipango na Maendeleo ya Taifa ni lazima itafute mbinu mahsusi za kuhakikisha kuwa hatari za mafuriko zimepungua nchini.

Bw. Naibu Spika wa Muda, ningependa kutamatisha mchango wangu kwa Hoja hii kwa kutoa mwito wa kuyalinda mazingira yetu, na haswa tuzuie mmomonyoko wa udongo. Tunapaswa kuwahusisha wananchi katika juhudi za kuzuia mmomonyoko wa udongo. Kuwahusisha wakazi katika sehemu za mashinani kutachangia zaidi kupungua kwa athari za mafuriko.

Kwa hayo machache, ninaunga mkono.

(Question proposed)

Mr. Wanjala: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion. I wish all the hon. Members were present to listen to this debate because, as you know, flooding does not only occur in river basins. It also occurs in cities, like Nairobi, and kills people. So, this is a very important Motion.

Mr. Temporary Deputy Speaker, Sir, floods usually come at night when it rains. Rain water from raised grounds flows towards low grounds up to the river basins. Floods should not be mankind's enemy, as they have turned out to be. They should benefit the whole country. It is because our leadership has not sat down to think of ways of using this excess water. Budalangi Constituency is among the areas that are hardest hit by floods in this country year in, year out. The land in Budalangi is flat. It is very beautiful. I can only compare it with land in the Netherlands. On Monday, I was in the Netherlands. You can only compare the land in that country with that in Budalangi. It is only that the Government has not come up with a strategy to tame River Nyando and rivers in other flood-prone areas like Bura, to make those areas look like the Netherlands. If rivers in those areas are tamed, those areas will always have water and every place will be green.

Mr. Temporary Deputy Speaker, Sir, as I have said, floods usually come at night when people are asleep. What causes floods? People living on higher ground have deliberately deforested the water catchment areas. So, when it rains, water flows downstream very fast in small streams. These streams join others along the way to form big streams. Further down, these streams drain into one river. The water flows downstream with a very big force. When has the Government ever desilted Rivers Nzoia, Yala, Nyando and Kuja?

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order! Mr. Wanjala, you have seven minutes for next Wednesday.

Hon. Members, it is time for the interruption of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.