

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 21st November, 2001

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No.655*

### ESTABLISHMENT OF POLICE POST IN RAPOGI TOWN

**Mr. Omamba** asked the

Minister of State, Office of the President, whether he could consider establishing a police post in Rapogi Town to cater for the area population of approximately 90,000 people.

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

The establishment of a police post at Rapogi Trading Centre at the moment is not a priority. The area is adequately policed by Migori Police Station and Administration Police from Rapogi District Officer's office.

**Mr. Omamba:** Mr. Deputy Speaker, Sir, I would like to register my disappointment for the answer given by the Assistant Minister. However, may I inform him that two months back, two carjackings took place between Rapogi and Ndhiwa route and the suspects disappeared completely. One car was found the next day in Homa Bay Town and the other one was found in a bush somewhere. Could the Assistant Minister deny that?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, generally, despite the high population in Migori and around Rapogi, and the incidences mentioned by the hon. Member, to the best of my knowledge, the area is generally a low-crime area. However, when we assess that the situation requires additional policing, we will take the necessary action.

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

**Mr. Deputy Speaker:** I have to recognise you. Now, I will recognise hon. Ayoki.

**Mr. Ayoki:** Mr. Deputy Speaker, Sir, Migori Town Police Station is very far away from Rapogi Township. Considering that Awendo is close to Rapogi and due to the population of the cane cutters in Awendo, criminal activities in Rapogi have increased. Why could the Assistant Minister not reconsider establishing a police station at Rapogi to curb the increase of criminal activities in that area?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, while I agree that Migori Town is about 40 kilometres away from Rapogi, generally, the communication network is good in the area. We have not experienced much of a problem in responding to incidences that have been reported to the police in this area in general. However, as I said earlier, when we do assess that there is need to establish additional policing facilities in that area, we will do so.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, unless the Assistant Minister does not know Migori well to call it a low-crime area, I do not know what it means. Being a border town, many will agree with me that Migori is not a low-crime area. However, be that as it may, in Rangwe, which is only ten kilometres from Homa Bay Town, a police station was built to protect a KANU operative. Could this Assistant Minister tell the House what criteria they used to create that police station? Considering that the distance from Migori to Rapogi is nearly 50 kilometres, what criteria do they use to create police stations?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, the difference between what I am saying and what hon. Dr. Ochuodho is saying is that my statement is based on fact, while his is based on political sentimentalism. However, to respond to the second part of his question---

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

**Mr. Deputy Speaker:** Yes, Dr. Ochuodho. Under what Standing Order are you making your point of order?

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, he is misleading the House.

**Mr. Deputy Speaker:** Order! Tell me the Standing Order he is offending first?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, we

do have an established criteria and I did say that we do annually assess the needs of various areas and we use different parameters. Among these parameters, are reported incidences of crime to assess the needs of areas, so that we can provide police facilities, and we shall continue to stick to that.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, the Assistant Minister has said that the distance from Migori Police Station to Rapogi, where he is requested to put a police post is 40 kilometres. Therefore, 40 kilometres for people who are economically poor makes them not afford to walk that distance. Could the Assistant Minister reconsider his statement and establish a police post there with about nine policemen?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I think I have answered that question.

**Mr. Mugalla:** Mr. Deputy Speaker, Sir, we are told that there are certain criteria used to determine where police stations are situated. We have a problem. Could the Assistant Minister furnish us with the criteria? Secondly, what criteria did he use to say that this area does not need a police station?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, for the purposes of this Question, I have stated here the incidences of crime reported in Rapogi town, which gives us an indication that it is adequately served by the Migori Police Station. I did say that part of the criteria is the number of reported crime incidences in that area. If the hon. Member requests those details in another Question, I will lay on the Table the whole criteria being used.

**Mr. Omamba:** Mr. Deputy Speaker, Sir, he is quite misleading the House because the distance between Rapogi and the boundary of Nyatike is over 50 kilometres. From Ndhwa, it is 60 kilometres, and to Macalder Police Station, it is 50 kilometres. From Rapogi, it is 50 kilometres and from Awendo, the distance is 10 kilometres. They have been selling animals from that end, and they have to report to Agatha Police Station towards Kisii because there is no other police station. The Administration Police that he is talking about have no means to tour the places where the problems occur. He is not sure of what he is talking about. Could he go to the ground and investigate and consider establishing the police stations? This is because wananchi are suffering immensely there.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, it is true that our Administration Police officers do not have adequate transport. That is the area that we are considering seriously to provide means of transport so that the Administration Police officers who are stationed in the DO's office have the means to use in order to respond to incidences of reported crime. However, I am very knowledgeable about what I am saying, as opposed to what the hon. Member is saying.

*Question No.627*

ELECTRIFICATION OF PROJECTS IN KITUTU CHACHE

**Mr. Deputy Speaker:** Is Mr. Angwenyi not here? We will come back to the Question later.

*Question No.645*

COFFEE EARNINGS FOR MUKURWEINI  
CO-OPERATIVE SOCIETY

**Mr. Deputy Speaker:** Is Mr. Mutahi not here? We will also come back to that Question!

*Question No.660*

NON-PAYMENT OF NSSF BENEFITS  
TO MR. OMAR HALAKE

**Dr. Ali** asked the Minister for Labour and Human Resource Development:-

(a) whether he is aware that Mr. Omar Ibrahim Halake, membership No.030256054, has not been paid his withdrawal benefits by NSSF;

(b) whether he is further aware that he was supposedly paid Kshs29,444.90 against cheque No.1858 of 31st May, 1999, which became stale; and,

(c) when he will be paid his benefits.

**Mr. Deputy Speaker:** Is there no one from the Ministry of Labour and Human Resource Development? We will come back to the Question.

*Question No.664*

MISUSE OF LATF MONEY BY MARAGUA  
COUNTY COUNCIL CLERK

**Eng. Toro** asked the Minister for Local Government:-

(a) whether he is aware that the clerk to Maragua County Council withdrew Kshs800,000 LATF money from Equity Bank, Kangari Branch;

(b) whether he is further aware that the Clerk used the same money to take fifteen (15) Maragua County Council Councillors to Mombasa for holiday from 7th to

15th July, 2001; and,

(c) whether he is further aware that as a result of this, council workers were not paid their June, 2001, salaries.

**Mr. Deputy Speaker:** Is there no one from the Ministry of Local Government? Seemingly, there is no one. We will come back to that Question later.

*Question No.639*

ISSUANCE OF TITLE DEED TO RIGENA PRIMARY SCHOOL

**Mr. Deputy Speaker:** Is Mr. Omingo not here? We will come back to that Question later.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, although I have not received a written reply, I beg to ask Question No.621.

*Question No.621*

REFUSAL TO REGISTER UNITED  
DEMOCRATIC MOVEMENT

**Dr. Ochuodho** asked the Attorney-General why the Government denied the United Democratic Movement (UDM) registration.

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, I am sorry, I do not know why he was not given the written reply, but it should be somewhere because I did sign it yesterday morning.

However, I beg to reply.

The Government denied the registration to UDM because of reasons stated in the letter of refusal dated 30th June, 1999. The officials appealed to the High Court of Kenya, challenging the Registrar's refusal to grant them registration. The High Court allowed the appeal and ordered the Registrar of Societies either to register the society or refuse to do so giving reasoned grounds for the refusal.

The Registrar informed the UDM of his refusal on 25th June, 2001, giving reasons as directed by the court. There has been no appeal from that decision.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, could the Attorney-General tell this House the reasons given in that letter as to why the Government refused to register UDM? Could he confirm if one of those reasons is the threat to national security, which I believe it is? Could he explain how UDM would have threatened the security of this country?

**Mr. Wako:** Mr. Deputy Speaker, Sir, the reasons were given to the UDM. I will read out the letter:-

"Pursuant to the court judgement dated 10th May, 2001, in the above matter, particularly under

(a) thereon, the registration of the above society is hereby refused because the Registrar has reasonable cause to believe that the interest of peace and welfare or good order in Kenya would be likely to suffer prejudice by reason of the registration of the society. This is as per section 11(2)(a) of the above Act. The reasons for the Registrar's declaration are stated herein below:-

(a) The Registrar has already given the applicants a hearing because the same were interviewed by the officers from the office of the Director-General of the National Security Intelligence

Service (NSIS), which officers were acting as agents of the Registrar-General.

(b) That the Director of NSIS, in a confidential report dated 24th March, 1999, made known to the Registrar his findings, which gave the Registrar a reasonable cause in terms of section 11(2)(a) of the above Act.

That section talks about good order and other issues.

(c) At the time of the initial refusal of registration, Justice Sheikh Amin noted that during the hearing of the appeal, the above-named political party had disintegrated, and hence the registration of the same would not have any useful purpose.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, this is a sad state of affairs in this country. If you go to the Registrar of Societies, half of the 45 political parties that we are being told about have been registered by the NSIS.

*(Applause)*

That is the truth of the matter! The Attorney-General misleads this House. Let him tell us who controls the registration of political parties! A political party in the name of the Alliance for Democracy submitted its application in April, last year. Up to this time, it has not been registered because it is associated with somebody they fear in this country. Let the Attorney-General tell us the actual reason why UDM was not registered, if it not that these people were going to split KANU from "up to down?"

**Mr. Wako:** Mr. Deputy Speaker, Sir, I do not know who is misleading the House but, definitely, without substantiation on his part, he must be misleading this House in alleging that all the 45 registered political parties were registered by the security agents of this country. Regarding the party he claims was denied registration, I am not even aware that the party has applied for registration. So, I cannot comment on the matter; it is a different Question. If he asks a specific Question regarding the registration of this party, he will get a specific answer. On the reasons given for refusal to register the United Democratic Movement (UDM), I have read out the letter that was sent to its officials. If the officials thought that the reasons given to them were wrong, why did they not appeal as required by law?

**Mr. Waithaka:** Mr. Deputy Speaker, Sir, it is very sad that the Attorney-General can stand here and claim that registering a certain political party will compromise the security of this state. He has not explained the security risk cited by the Registrar of Societies as a reason for denying the UDM registration in a country with 45 registered political parties. If the UDM was denied registration only because it would have drawn its followers from purported KANU zones, and if registering a political party that would draw supporters from purported KANU zones is a security risk, this country is treading on very dangerous grounds.

**Mr. Deputy Speaker:** Mr. Waithaka, ask your Question. This is not time for lecturing.

**Mr. Waithaka:** Mr. Deputy Speaker, Sir, could the Attorney-General confirm or deny that the UDM was denied registration on instigation by people who come from the purported KANU zone, who feared that the UDM would replace KANU in that area?

**Mr. Wako:** Mr. Deputy Speaker, Sir, under the law, the discretion to register a political party is vested in the Registrar of Societies. I am satisfied that the Registrar of Societies took into account all the relevant facts, including the report by the Director-General of National Security Intelligence Service (NSIS). He gave the reasons for denying the party registration to its officials. Under the law, if the officials had disagreed with the reasons given to them, they would have gone to court.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Attorney-General is aware that during the Inter-Party Parliamentary Group (IPPG) talks, it was considered that the management of political parties could not be properly carried out under the Societies Act. A recommendation was made that there should be a new law governing the management of political parties to avoid this kind of problem. When is he going to introduce such a law here?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I am aware of that recommendation. Of course, the IPPG also recommended immediate amendment to the existing law, so that an appeal against the decision of the Registrar of Societies can go straight to court, and not through the Attorney-General. Section 15 of the Societies Act, as amended following the recommendation of IPPG, reads as follows:

"Any society aggrieved by the Registrar's refusal to register it or by cancellation or suspension of its registration under Section 12 may:

(a) in case of a political party, appeal to the High Court within 30 days of the refusal, cancellation or suspension;

(b) in case of any other society, appeal to the Minister."

In this case, we are talking about a political party which has been denied registration by the Registrar of Societies. Appeal in this regard should have been filed with the High Court.

Mr. Deputy Speaker, Sir, on the IPPG's recommendation that a law regarding the management of political parties be put in place to avoid relying solely on the Societies Act we, in conjunction with the Electoral Commission of Kenya, are drafting a Bill to that effect. Even the Constitution of Kenya Review Commission is aware of what we are doing. The law will be prepared in consultation with political parties. On this one, you may recall that, in fact, in 1992, I published a Bill on the registration of political parties. It was a very good Bill. It took into account similar provisions as those found in Tanzania, the Seychelles and other Commonwealth countries; it was a very good Bill. However, it could not be debated because of the euphoria of multipartyism then. If that Bill is amended here and there, it will serve this particular purpose.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, we have studied the list of the 45 political parties that have been registered by the Registrar-General. It is quite clear that about three-quarters of these political parties were presented for registration by Kikuyus. Parties from the Rift Valley Province have been denied registration. It is quite clear that these parties were not registered by the Registrar-General but rather, by the NSIS. The Registrar-General cannot register any political party without a recommendation for its registration by the NSIS. So, the decision to register or not to register a political party is made by the NSIS. Could the Attorney-General explain why parties which are intended to divide the voters in Central Province are the ones being registered? In fact, the Registrar-General has standing instructions for the registration of Saba Saba Asili Party when its officials present the party's papers to him. The registration of the party was only stopped when, the other day, Mr. Matiba told the Registrar-General not to register it. So, could the Attorney-General explain why there is this discriminatory practice in his office?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I do not agree that the majority of the applicants for registration of political parties are from the Kikuyu community. However, if that is the position, it means that Kikuyus are politically very active. I would urge other tribes to be also politically active so that their applications can be considered along those of the rest of Kenyans.

**Mr. Mwalulu:** Mr. Deputy Speaker, Sir, Mr. Amos Wako is the chief legal advisor to the Government.

**Mr. Deputy Speaker:** Order! Order! There is no such person as Mr. Amos Wako in this House; there is the Attorney-General!

**Mr. Mwalulu:** Mr. Deputy Speaker, Sir, as the chief legal advisor to the Government, could the Attorney-General confirm or deny that refusal to register the UDM was an act of discrimination, which is contrary to Section 82 of the Constitution of Kenya?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I recognise the hon. Member. I believe that this is the first question he has ever asked me. I would like to reply that when exercising his discretion, the Registrar of Societies takes into account all the information available to him. According to the answer I have given, the Registrar of Societies has stated the reasons for denying the UDM registration, which include security reasons. If the hon. Member reads Section 82 of the Constitution of Kenya, he will find that security reasons can be a ground for refusal of registration of a political party, and that does not amount to a violation of the rights of association.

**Mr. Muturi:** Mr. Deputy Speaker, Sir, in his answer to the Question, the Attorney-General said that, among other things, the Registrar of Societies considered some reports presented to him by officers from NSIS, who were then acting as agents of the Registrar of Societies. Since the law does not provide for such agency, could the Attorney-General tell this House the other persons or bodies of persons which are supposed to act as agents of the Registrar of Societies in considering applications for registration of political parties?

**Mr. Wako:** Mr. Deputy Speaker, Sir, there is nothing in law which prohibits the Registrar of Societies from seeking information from any relevant quarter which will assist him in the discharge of his duties. Normally, while considering the registration of societies, he seeks information from the NSIS; that is a fact. He can accept or reject any information given to him and exercise his discretion.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, if the UDM had been registered, Messrs. Jirongo and Ruto would not have gone back to KANU. But be that as it may, the Attorney-General makes it appear as if--

**The Assistant Minister, Office of the President** (Mr. Samoei): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! He has not started! When he starts, I will deal with him!

**The Assistant Minister, Office of the President** (Mr. Samoei): On a point of order, Mr. Deputy Speaker, Sir. Dr. Ochuodho has mentioned my name with respect---

**Mr. Deputy Speaker:** Order! I have stated here repeatedly that if an hon. Member wants to stand up on a

point order, it must relate to only two issues.

*(Mr. Kamolleh's cell phone rang)*

Mr. Kamolleh, you are out of this Chamber for the rest of this morning.

*(Mr. Kamolleh withdrew from the Chamber)*

The point of order must be on either conduct or procedure. So, Mr. Samoei, before you stand to raise your point of order, you should indicate which Standing Order you are relying on and which point of order the hon. Member has breached.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, the guilty are afraid, but there are two Mr. Rutos in this House.

The Attorney-General has given the impression that the Registrar-General is the person who has the power to register political parties. He does not act on his own behalf. We know that the Attorney-General is the person who has the power to register political parties, but somebody else seems to be executing it. Given that the United Democratic Movement (UDM) has already been weakened and I do not see any security threat it causes to this country, unless the Attorney-General tells us what it is, could he now use the power that he has and register it?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I wish this Question was asked prior to 1997. After 1997, the Inter-Parliamentary Parties Group (IPPG) removed the powers I had over the registration of political parties and vested them in the Registrar of Societies. If you are aggrieved, you should go straight to the High Court and by-pass the Attorney-[**Mr. Wako**] General. So, I have no power in this particular regard.

*Question No.627*

#### ELECTRIFICATION PROJECTS IN KITUTU CHACHE

**Mr. Deputy Speaker:** The hon. Member for Kitutu Chache Constituency, Mr. Angwenyi, is out of the country with the Departmental Committee on Defence and Foreign Relations. So, his Question is deferred to next week, Wednesday.

*(Question deferred)*

**Mr. Deputy Speaker:** Mr. Muhika's Question for the second time!

*Question No.645*

#### COFFEE EARNINGS FOR MUKURWEINI CO-OPERATIVE SOCIETY

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

(a) what the total coffee earnings were by Mukurweini Coffee Farmers Co-operative Society in the years 2000-2001;

(b) how much of this amount went to reduce the Co-operative Bank of Kenya loans and how much was taken by the liquidator; and,

(c) how much was paid to the farmers.

**Mr. Deputy Speaker:** Where were you when the Question was called out the first time?

**Mr. Mutahi:** Mr. Deputy Speaker, Sir, I apologise. I am the captain of Bunge Football Club and I got late because we were practising. I am sorry.

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

(a) The total coffee earnings from Mukurweini Coffee Farmers Co-operative Society in the year 2000 and part of the year 2001 was Kshs265,085,903.25. The earnings were handled by a liquidator who was appointed on 3rd January, 2001. He dealt with the proceeds of the financial year 1999/2000 and part of the year 2000/2001.

(b) Kshs145,021,840.90 was paid to reduce the Co-operative Bank of Kenya loan. Kshs924,050.95 was taken by the liquidator out of which he contributed Kshs225,949.05 to pay salary arrears. The contribution by the liquidator will be recovered at the final settlement of the liquidation account. The Co-operative Bank of Kenya is still owed Kshs225,142,763.35 out of the total amount of Kshs370,164,604.20.

(c) Farmers were paid Kshs119,140,011.40. This covered advance by the Co-operative Bank of Kenya at Kshs7 per kilogram, totalling Kshs91,776,300, and December 2000 payments at various rates totalling Kshs27,363,711.40.

**Mr. Mutahi:** Mr. Deputy Speaker, Sir, this is very disappointing. It is the biggest disappointment in my career in this House. I wanted to get the information from the Ministry of Agriculture, but the Minister went ahead and asked the liquidator, who has messed up this co-operative society, to provide him with answers to this Question. He got all these answers from the liquidator.

We are told that the liquidator received Kshs924,000 and only Kshs225,949 was paid as salaries to the employees. What happened to the balance of Kshs698,000?

**Dr. Godana:** Mr. Deputy Sir, could the hon. Member, please, repeat the question?

**Mr. Mutahi:** Mr. Deputy Speaker, Sir, in answer to part "b" of the Question, the Minister has told us that Kshs924,000 was taken by the liquidator and out of it, Kshs225,000 was paid as salaries to the employees of the Mukurweini Co-operative Society. What happened to the balance of Kshs698,000, which was not paid as salaries or to the farmers?

**Dr. Godana:** Mr. Deputy Speaker, Sir, I am sorry, the hon. Member thinks that this is the biggest disappointment of his career in the House. I think then he has not been disappointed in the House if that is so.

Salary arrears, in fact, stood at well above the figure which was quoted. It is my understanding that some of that amount of money has still to be paid. If the hon. Member wants a detailed statement of accounts, if he doubts the integrity of the liquidator as the Question seems to suggest, I will be more than prepared to, in fact, ask for a full statement of account for all the money concerned and bring it back to this House.

**Dr. Murungaru:** Mr. Deputy Speaker, Sir, it has been the experience of many co-operative societies, particularly coffee co-operative societies which have broken up and gone into liquidation, that when liquidators get into the process of liquidating them, almost invariably, the bulk of the assets of those societies end up with the liquidator. What arrangement has the Minister put in place to protect the assets of Mukurweini farmers? He should ensure that when the co-operative society is liquidated, the proceeds of that liquidation will go towards settling the various debts that were owed to Mukurweini farmers instead of the same ending up in the pockets of the liquidator.

**Dr. Godana:** Mr. Deputy Speaker, Sir, I want to concede that the performance of co-operative societies, especially in coffee-growing areas for the last decade, has been horrible to say the least. This is why we are carrying out reforms, not just with regard to the coffee industry, whose Bill we are starting the Second Reading this afternoon, but we have also proposed changes to the Co-operative Societies Act, to deal precisely with these kinds of problems. I can only assure the hon. Member that within the law, we will do everything to ensure that those assets of societies which have been liquidated will be fully recovered.

**Eng. Toro:** Mr. Deputy Speaker, Sir, it is a well known fact that one institution that has impoverished coffee farmers is the Co-operative Bank of Kenya. Farmers receive their payments through the Co-operative Bank of Kenya and the bank deducts the loans outstanding. What steps will the Minister take to make sure that the Co-operative Bank of Kenya stops exploiting the coffee farmers because the bank is not doing business with farmers, but it is exploiting the farmers at the moment?

**Dr. Godana:** Mr. Deputy Speaker, Sir, I want to disagree with the hon. Member. I think this is a case of the hon. Member directing his ammunition at the wrong target. The Co-operative Bank of Kenya is not the entity, person or corporation responsible for the suffering of coffee farmers. The reality is that the elite who are controlling co-operative societies are the ones who are responsible for the mess. They are the ones who maximize their so-called expenditures and deductions, and the co-operative society lives strictly within its rules. So, I think, if we are to be serious and we have to correct the pathetic situation regarding the coffee farmers, all of us as leaders, and particularly leaders from the coffee-growing areas, will have to be honest enough and tell the facts. The problem, or the rot, is with the elites who are managing those institutions. Those are the ones who have ruined the coffee farmers.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, the coffee farmers have really suffered, not only at the hands of the elite, and I agree with the Minister, but also at the hands of these liquidators. In my constituency, the Nkuene Co-operative Society lost Kshs90 million from three different liquidators. Could the Minister consider setting up a special taskforce within his own Ministry to investigate activities of these liquidators and try to see whether we can

return to farmers some of the money stolen by the liquidators?

**Dr. Godana:** We will be prepared to see what is feasible within the law. Some of these are liquidations which have been completed, and it may be difficult, legally, for us to re-open the books. But I will be more than prepared to receive ideas from the hon. Members of those areas affected, like where the hon. Member said that three liquidators have robbed people of up to Kshs90 millions. We can consult with the Attorney-General's department to see whether we cannot revisit some of these cases. If there is clear evidence of fraud, I think there is no statute of limitations to crimes. If that can be established, I will be prepared to support moves to try and reinstate to farmers what should have been their rightful earnings.

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

**Mr. Deputy Speaker:** Yes!

**Mr. Mutahi:** I wanted to agree with the Minister---

**Mr. Deputy Speaker:** What is your point of order?

**Mr. Mutahi:** My point of order is this: Can the Minister tell us whether---

**Mr. Deputy Speaker:** You are asking a question! I will give you the last chance to ask a question.

**Mr. Mutahi:** Thank you, Mr. Deputy Speaker, Sir. You are pinning us down! I want to agree with the Minister that he should bring back to this House an account of Mukurweini Farmers Co-operative Society for the coffee sold in the year 2000/2001. This is because when the liquidator came to Mukurweini and took over office in January, he stopped payment through the Co-operative Bank of Kenya. It is like he opened another account. So, I want the Minister to find out where this money was going - in all the auctions - from the time he came to office up to the last auction No 4040. The money never went to the account in the Co-operative Bank. So, could the Minister tell us when he is going to come back having investigated that account and having known where the money is going? When can he bring the details of that account to this House?

**Dr. Godana:** Mr. Deputy Speaker, Sir, I will come back to the House with those details within a period of two weeks.

**Mr. Deputy Speaker:** Dr. Abdullahi Ali's Question, for the second time!

*Question No.660*

NON-PAYMENT OF NSSF BENEFITS  
TO MR. OMAR HALAKE

**Dr. Ali** asked the Minister for Labour:-

(a) whether he is aware that Mr. Omar Ibrahim Halake, Membership No.030256054, has not been paid his withdrawal benefits by NSSF;

(b) whether he is further aware that Mr. Omar Halake was supposedly paid Kshs29,444,90 against cheque No.1858 of 31st May, 1999, which became stale; and,

(c) when Mr. Omar Halake will be paid his benefits.

**The Assistant Minister for Labour and Human Resource Development** (Mr. Chanzu): Mr. Deputy Speaker, Sir, I beg to apologise for not being in the House when the Question was asked during the first round.

However, I would like to request that this Question be deferred to Tuesday next week so that we can get more information. This is because we have just realised that there is some information which is lacking for this Question.

**Mr. Deputy Speaker:** Mr. Chanzu, this Question must have been with you for, at least, three months, and you are finding information about this Question from one individual for three months!

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, I am sorry about that, but I think it must have been an oversight.

**Mr. Deputy Speaker:** But, Mr. Chanzu, you have an answer signed by your Minister!

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, the written reply is not comprehensive enough. So, we will get more information and we will be able to answer the Question satisfactorily.

**Mr. Deputy Speaker:** Order! Order! Mr. Chanzu, that is simply not good enough! This Question has been answered by yourself and not another person, and you have signed it to indicate that the answer is accurate in every respect. You cannot come now and tell us that you sent us an answer which you find unsatisfactory. That is not satisfactory at all! So, give us a better excuse.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, after I consulted with the Minister who signed this written reply, it was realised that there is some information which is lacking in it. We had just to look at the answer again and we found that it did not have sufficient information. That is when---



**Mr. Deputy Speaker:** Dr. Ali, are you happy for this Question to be deferred?

**Dr. Ali:** Mr. Deputy Speaker, Sir, I have no problem, but it should not be deferred to Tuesday next week; it should have been Thursday this week.

**Mr. Deputy Speaker:** Yes, I will defer the Question to Tuesday next week.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Chair will remember that on 17th October, 2001, I asked a Question in this House about a lady by the name Eunice Wangare Mwangi, whose employment was terminated, and this Assistant Minister came here and said that he had no such records. I then produced letters to show that---

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

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the point I am raising is that, is this Assistant Minister right to come to this House every time and claim that the answer he has is unsatisfactory, when he, in fact, gave assurance at that particular time, that they will make sure that they get correct answers? There are a lot of Questions piling up because of such inefficiency! Is the Assistant Minister in order to do that? Should he be allowed to get away with it?

**Mr. Deputy Speaker:** Hon. Members, I want to draw your attention to Standing Order 88(2). I want to read that Standing Order for the benefit of hon. Members:-

"Conduct is grossly disorderly not only if the Member concerned creates actual disorder, but also if he knowingly raises a false point of order, or commits any serious breach of these Standing Orders, or persists in making serious allegations without (in Mr. Speaker's opinion) adequate substantiation, or otherwise abuses his privileges or deliberately gives false information to the House or refuses to answer a legitimate Question---"

So, Mr. Chanzu---

**Hon. Members:** Forgive him for the first time!

**Mr. Deputy Speaker:** I will let you get away with it this time. I will now defer the Question to Tuesday next week.

*(Question deferred)*

**Mr. Deputy Speaker:** Let us move on to Eng. Toro's Question for the second time!

*Question No.664*

MISUSE OF LATF MONEY BY  
MARAGUA COUNTY COUNCIL

**Eng. Toro** asked the Minister for Local Government:-

(a) whether he is aware that the Clerk to Maragua County Council withdrew Kshs800,000, "LATIF" money from Equity Bank, Kangari Branch;

(b) whether he is further aware that the Clerk used the same money to take 15 Maragua County Council councillors to Mombasa for a holiday from 7th to 15th July, 2001; and,

(c) whether he is further aware that as a result of this, council workers were not paid their June, 2001 salaries.

**Mr. Deputy Speaker:** Is anyone here from the Ministry of Local Government? Eng. Toro, I have to defer this Question to Wednesday next week.

**Eng. Toro:** Mr. Deputy Speaker, Sir, I would like to request the Chair to defer this Question to the week after that because next week, Bunge FC will be in Arusha.

**Mr. Deputy Speaker:** I will defer this Question to Wednesday, the following week. Is that okay, Eng. Toro?

**Eng. Toro:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. I would like to point out that "LATF" is misspelt as "LATIF". There is no letter "I". I think there is something wrong. It is the Local Authority Transfer Fund (LATF).

**Mr. Deputy Speaker:** Mr. Obwocha, you know that I have deferred that Question, but if you insist on accuracy, I will say that there is no Question before us. This is because he is referring to a fund that does not exist.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I was saying---

**Mr. Deputy Speaker:** I am going to be magnanimous to the Member because I understand what he means. The Question is deferred.

*(Question deferred)*

Let us move on to Mr. Omingo's Question for the second time!

**Mr. Omingo:** Mr. Deputy Speaker, Sir, I am sorry for coming late.

*Question No.639*

#### ISSUANCE OF TITLE DEED TO RIGENA PRIMARY SCHOOL

**Mr. Omingo** asked the Minister for Lands and Settlement when Rigena Primary School, which is situated at the boundary of Migori and Gucha Districts, will be issued with a title deed.

**The Assistant Minister for Lands and Settlement** (Mr. Tarar): Mr. Deputy Speaker, Sir, I beg to reply.

Rigena Primary School will be issued with a title deed once the school authorities apply for the same through the county council and the Ministry of Local Government. There is an established procedure for processing of title deeds for schools, and the Rigena Primary School Committee should follow the laid-down procedures. The committee is free to seek assistance from the local lands offices.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, the copy of the written answer which has been signed by Mr. J.W.N. Nyagah, EGH, MP, is a very casual one. I am saying this because they have not carried out their research. I would like to point out that Rigena Primary School is in Gucha District administratively, but in terms of land and settlement, the title deed documents are in Migori District. What the Assistant Minister has said that the school committee should do has actually been done. The problem is that when they go to Migori District, they are told to go back to Gucha District for the document. Could the Assistant Minister get a little more serious; go back to the ground, and get an appropriate answer to this Question because the answer he has given us is not adequate?

**Mr. Tarar:** Mr. Deputy Speaker, Sir, I thought the hon. Member wants a title deed for the school. This is exactly what I have stated here.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, the Assistant Minister should be clear. The school wants a title deed. Where should they go for the title deed? Should they go for it in Gucha District or Migori District? Let him tell us, so that the school authority can follow up the issue of the title deed.

**Mr. Tarar:** Mr. Deputy Speaker, Sir, I think the problem is somewhere between Gucha District and Migori District. Since I do not come from that particular area, I will go back to my office, get more details and come here with a satisfactory answer.

**Mr. Deputy Speaker:** I think we can do no better than what the Assistant Minister has said. I will defer this Question to Wednesday, next week!

*(Question deferred)*

#### QUESTIONS BY PRIVATE NOTICE

##### EVICTION OF KISUMU WEST RESIDENTS

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Why were occupants of Parcel

No.934/233 in Kisumu West Location, Maseno Division, evicted from their land recently?

(b) What is the status of the ruling by the Principal Magistrate's court at Maseno, dated 7th December, 1999, on Criminal Case No.216 of 1998?

(c) What is the Government doing to ensure that these ordinary Kenyans are guaranteed their right to property under the rule of law?

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

(a) The occupants of Parcel No.934/233 in Kisumu West Location, Maseno Division, were evicted because of a court order dated 19th June, 2001, issued by the High Court of Kenya and addressed to the OCS, Maseno.

(b) The status of Court Case No.216 of 1998 was dismissed under Section 210 of the Criminal Procedure Code. The complainant then moved to the High Court of Kenya to challenge the decision of the magistrate's ruling. The High Court agreed with the magistrate and in effect issued the court order I have referred to.

(c) The Government will ensure that all Kenyans, irrespective of their social status, are protected as enshrined in the Constitution.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, you will realise from the Assistant Minister's very brief answers to this Question that something is being hidden. The ruling of the magistrate, Mr. Miseda, in 1998, that the Assistant Minister has referred to was very clear. It said that it was clear to the magistrate that there was no evidence whatsoever that the title deed that the Assistant Minister, Mr. Muchilwa, who is claiming the land, had been issued by the Commissioner of Lands was, indeed, entitled to him. It was clear to the magistrate that the peasants who owned this land had freehold title deed to it. The Assistant Minister has said that the Assistant Minister moved to the High Court of Kenya to appeal against the case. All that the Assistant Minister has told us is the ruling and not the substance of what went on in the High Court of Kenya. This Question would have better been answered by the Attorney-General or the Minister for Lands and Settlement and not the Office of the President because they are giving inadequate answers. Could the Assistant Minister explain to us the ruling that was made in the High Court of Kenya, and whether, indeed, the peasants who own this land were heard in the High Court of Kenya so that they could put their case before that eviction order was issued?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I do not have the arguments that led to the issuance of this court order that was used to evict the occupants of the land in question here. If the hon. Member is interested in the substance of the argument, I will produce the ruling.

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir. It is not a question of the hon. Member being interested in the ruling. It is the responsibility of the Assistant Minister to give this House adequate answers to the Question. What he has done here is to avoid the answer to the Question by giving us a precis of what he thinks the answer should be. Now that this Question has been before this House four or five times, is the Assistant Minister in order to come to this House and give an extremely inadequate answer and then appeal to me whether I want to hear the answer or not? Is that in order?

**Mr. Deputy Speaker:** Hon. Members, there seems to be a problem with this Question. You will no doubt recall, it was first directed to the Ministry of Lands and Settlement; and they felt they were inadequate to answer it and transferred it to the Office of the President. Now, I cannot direct the Government which Minister should answer this Question. But I do think, in this particular instance, that really it is a matter that should be addressed either by the Attorney-General or the Minister for Lands and Settlement. So, if the Questioner is not satisfied with the way the Question is being answered and would rather that it went to the Attorney-General, then I will so direct.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I agree with you totally. The way the Government is playing a ping-pong game with this Question so as to shield and protect an Assistant Minister who is stealing land from ordinary peasants in Kisumu Rural leaves a lot to be desired. The Njonjo Commission and the Attorney-General should join hands to protect ordinary peasants from these sharks who are stealing land from ordinary Kenyans. So, I do agree with---

**Mr. Deputy Speaker:** Order! Hon. Members do not steal; they convert!

*(Laughter)*

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I agree with you that grabbers, on the other side, who have been proven by me---

**Mr. Deputy Speaker:** Order! Let us hear the reaction. I have not opened debate on this Question.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, to the best of my knowledge, this Question has been answered adequately. If you look at the Questions, I do not know what else anybody would have said. The hon. Member has asked very clearly why the occupants were removed from the land, and I did state that it was in response to a court order. There is no other better answer that can be given because to the best of my knowledge, this Question has been answered. I think it is in the interest of the dignity of this House for you also to ask the hon. Member who has referred to hon. Members on the Government side as "grabbers" to, maybe, substantiate his allegation or withdraw and apologise to the House.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the issue raised about which Minister of Government should answer the Question is valid in normal circumstances. But in circumstances where an hon. Member directs a Question to a particular Ministry because, in the best understanding of that hon. Member, that is where the

problem lies--- There is this game which we had again last week with a Question in my constituency, where the Office of the President arm-twists parent Ministries for Questions which apparently affect either the Office of the President or officers of the Government. They take those Questions and cover-up issues. Is this House not entitled to insist that unless an hon. Member concedes and agrees, Questions should not be shuffled between one Ministry and another, to be able to twist and confuse Members? Are we not entitled to do that?

**Mr. Deputy Speaker:** It has been the practice of this House that when a Ministry finds that it is really not in a position to answer a Question, it is referred to appropriate Ministries. But they do so without reference to the House. It has worked well so far. But there seems to be some difficulties. I would like to advise that if Ministers feel that they cannot answer certain Questions adequately, they refer them back to the Speaker for determination. But for the time being, this is the practice that has been going on and it has not failed us. I would like to vary it slightly that when a Ministry finds or feels that it is unable to answer a Question and it refers it to another Ministry, the Chair should be informed so that it is also not ambushed with a Question which, in his routine business, he approved to go to a specific Ministry.

**Hon. Members:** What is your ruling?

**Mr. Deputy Speaker:** On what?

**Hon. Members:** On this one!

**Mr. Deputy Speaker:** Well, if the hon. Member is not satisfied with the Minister's answer, he has recourse to other sections of the Standing Orders.

**Mr. Achola:** On a point of order, Mr. Deputy Speaker, Sir. Since hon. Muchilwa has been mentioned in this case, and we are not satisfied with the answer; and he has just walked in, could we kindly ask him to assist the House?

**Mr. Deputy Speaker:** Order! You may consider that as a joke, but it is not. This House is not a court which tries Members as and when they are mentioned. As I have already ruled, if the Member is not satisfied with that answer, he can take recourse to Standing Order No.18.

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

**Mr. Deputy Speaker:** Which Standing Order?

**Mr. Ayoki:** Mr. Deputy Speaker, Sir, could you then allow me to ask the last question because this Question touches on matters in my constituency?

**Mr. Deputy Speaker:** You heard me! Next Question.

**The Assistant Minister for Education, Science and Technology** (Mr. Karauri): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Which Standing Order?

**The Assistant Minister for Education, Science and Technology** (Mr. Karauri): Mr. Speaker, Sir, I stand on a point of order under Standing Order No.68. I feel that the Chair has been trying to muzzle debate by asking hon. Members who stand on a point of order to state which Standing Order has been breached. Standing Order No.68 states very clearly that a Member standing on a point of order will be heard and a Member on his feet will sit down. After that, the Speaker will determine whether it was a point of order or not. The Speaker cannot use even Standing Order No.1 to require a Member to state which Standing Order has been breached before he speaks.

*(Applause)*

**Mr. Deputy Speaker:** Order! Really, hon. Members ought to read Standing Orders *in toto*; not only certain sections. If you read Standing Order No.68(1) and (2)--- What does Standing Order No.68(2) talk about? It says:

"Mr. Speaker shall either give his decision on the point of order forthwith or announce that he defers the same for consideration after which the Member who was speaking at the time the point of order was raised may continue his speech."

**The Assistant Minister for Education, Science and Technology** (Mr. Karauri): After he has finished---

**Mr. Deputy Speaker:** Order! I gave you an opportunity and I did not interfere. Say one more word and I will now interfere.

*(Loud consultations)*

Order! What does it mean? It means that you must refer the Speaker to a Standing Order which has been

violated by the hon. Member so that he can consider it. The Chair does not rule except using these Standing Orders. That, really, is the interpretation of Standing Order No.68. But hon. Members have the habit of standing on a point of order and asking questions. How do we stop this habit? That interrupts the flow of business. We shall do it by the mechanism which I have devised; that you stand, name the Standing Orders that are being offended and the Chair will listen. But I will not allow hon. Members to use Standing Orders as guise for asking questions or raising arguments.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I think this is a very important issue and for the smooth running of the House, I think it is important for all of us to understand the correct procedure. I think Standing Order No.68 is a gateway. That is the one that opens the door for an hon. Member to stand on a point of order. Then after that, you are right to say that he or she ought to indicate which Standing Order has been violated in respect of two things; conduct and procedure. I think what has caused problems is that before an hon. Member stands rightly on the provision of Standing Order No.68, he is asked to state which standing order he has violated. I think we should be allowed to stand, then we state which Standing Order has been violated. Then at that point in time, he should be ruled out of order. I thought that was the correct procedure.

**Mr. Deputy Speaker:** Thank you. Next Question, Mr. Keriri.

GOVERNMENT POSITION ON IMPORTATION  
OF UNLEADED PETROL

**Mr. Keriri:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Energy the following Question by Private Notice.

- (a) What is the Government position on the importation of unleaded petrol?
- (b) How will such importation affect the performance of the Kenya Petroleum Refineries Limited?
- (c) Will such importation have any effect on Kenya's foreign exchange position, and if any, how much in US dollars in terms of the price differential between crude oil and unleaded petrol?

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

(a) The market is liberalised, and the Government is therefore, not opposed to the importation of unleaded gasoline as long as the companies importing the same fulfil their basic load requirements at the Kenya Petroleum Refineries Limited. In fact, the Government has already introduced a standard for unleaded gasoline. However, there needs to be proper co-ordination of the various stakeholders to ensure a smooth transition from leaded to unleaded gasoline. The Ministry is taking a lead in this matter. Total elimination of unleaded gasoline from the market will require upgrading of the refineries.

(b) The importation of unleaded gasoline is not expected to significantly affect the performance of the Kenya Petroleum Refineries Limited. In the year 2000, for example, the refinery production of gasoline premium was 188,000 metric tonnes. However, the requirement for the country was 241,000 metric tonnes. The shortfall of 53,000 metric tonnes was imported, and it is part of this shortfall that will be unleaded. We also realise that there are limited numbers of vehicles in the country that can take unleaded gasoline.

(c) The importation of unleaded gasoline is not expected to have any major effect on Kenya's foreign exchange position as the price of imported premium gasoline is about the same as unleaded gasoline price. For example, in October, 2001, the unleaded A4B cost US\$197 per metric tonne, while the leaded A4B cost US\$202 per metric tonne. The differential in flight premium evens it out. In fact, the recently imported unleaded gasoline by one of the oil companies is selling for the same price per litre as the premium gasoline.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, I am grateful that the Minister has made the Government position on the issue clear, because we were worried of consistent contradicting statements from two Government Ministers, has now made the Government policy on the issue clear. I would like to feel that the Minister and I hold the same understanding on part "c" of my Question. He has compared leaded gasoline with unleaded gasoline, while I am talking about unleaded gasoline which is pure and the crude oil that the refinery uses, because the refinery does not use refined gasoline. It processes crude oil which is imported. My question was in reference to the comparison between those two, because we are importing pure gasoline as against crude oil which is processed by the refinery. Could we have the same understanding with the Minister?

**Mr. Raila:** Mr. Deputy Speaker, Sir, basically, the question is not very clear. It is about leaded and unleaded gasoline. As the hon. Member knows, when we liberalised, we allowed all the oil petroleum dealers to import a certain amount, but we insisted that a certain base load must be imported in crude form. So, every marketer, therefore, is required to import at least 500 tonnes of crude oil every month. This is to ensure that the refinery works and secondly, because there are certain other products which cannot be imported like fuel oil and

LPG. If [Mr. Raila]

we allowed the importation of these other oil products, we would then have a shortage of this very crucial product. That is the reason why there is that requirement that any importer must import a certain amount in form of crude. But then, with regard to the issue of leaded and unleaded gasoline, the refinery currently cannot produce unleaded gasoline. There needs to be an upgrading of the refinery to be able to produce unleaded gasoline. That is why we are talking about phased-out programme, agreed upon by all the stakeholders in the refinery. This is something that we are already discussing with all the stakeholders.

**Mr. Maore:** Mr. Deputy Speaker, Sir, since the Minister is the one in charge of policy in the Energy sector, could he state to this House and the country, a clear timetable which has been put in place in order to close down the department of the Kenya Oil Refinery that produces the leaded fuel, which in turn is poisoning members of the public with tonnes of lead in the atmosphere? How many years does he need to totally upgrade the refinery in order to produce the unleaded fuel for our motor vehicles?

**Mr. Raila:** Mr. Deputy Speaker, Sir, I would like to inform the hon. Member that this issue has a long history. The issue of introducing unleaded gasoline was first mooted in this country way back in the 1970s, when the International Standards Organization (ISO) had introduced international standards on unleaded gasoline. At that time, the Government discussed with the various stakeholders and, indeed, the Kenya Bureau of Standards prepared a standard for unleaded gasoline. However, the introduction of that standard was opposed by major marketers, on the same grounds that the refinery in which they were shareholders did not have the capacity to produce unleaded gasoline. To do so, it required a heavy investment, then estimated at US\$25 million to introduce a cut-cracking process in the refinery. This matter has since then been revisited now. What we are now saying is that, we need to come up with a phase-out programme. We are talking in terms of five years. Not many vehicles in this country can use unleaded gasoline without introducing a catalytic cracker. The unleaded gasoline can, at the moment, be used by a very limited number of vehicles. There are costs involved, and that is why we are talking about a phase-out programme agreed upon by all the stakeholders for five years.

**Mr. Ndicho:** Mr. Speaker, Sir, this is an issue of concern to motorists in this country, and especially when they hear that the unleaded gasoline would affect their engines, unless a converter has been installed into the engine. Could the Minister allay those fears and explain which vehicles can use unleaded gasoline and which ones cannot? Many people have suffered the effects of adulterated fuel, by reducing the lifespan of their engines.

**Mr. Raila:** Mr. Deputy Speaker, Sir, as I have said, not very many vehicles can use unleaded gasoline. There are certain vehicles that are designed to use unleaded gasoline in countries where that gasoline is the only gasoline that is available on the market. As we know, even the motor market is liberalised, and there are vehicles which have been imported into this country, either directly from Europe or through Dubai, which have been designed to use unleaded gasoline. The agreement is that, only one company which has imported unleaded gasoline is selling it at specific filling stations and, customers are advised accordingly so that they know that if their vehicles do not have a catalytic cracker, they would have a problem with their valves. We are negotiating with all the stakeholders in the oil industry and, next week we are going to have a meeting to agree on the phase-out programme.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, it is okay for the Minister to say that the Government is not involved in this importation, as long as the companies importing the same fulfil their basic requirements. Could he tell us whether there is any mechanism in place to enforce those requirements, and how much each respective shareholder in the oil refinery is required to contribute?

**Mr. Raila:** Mr. Deputy Speaker, Sir, let me tell the hon. Member that there are logistics that are involved here. First of all, if you import unleaded gasoline, for it to be of value to you, you should not transport it through the pipeline. If you transport it through the pipeline, by the time it reaches Nairobi, it will be leaded. That is the reason why we can only bring it in by trucks or by rail wagons. But this transport system has certain implications to our road users. If we have so many trucks on our roads, they are going to pose a lot of danger to our road users. That is why we want to minimise the effects on road transport. The requirement at the moment is that anybody who wants to import refined oil products, because there are marketers who say it is more expensive to refine oil than to bring in refined oil products, must first of all import 500 metric tonnes of crude oil. These people would prefer to bring in refined products from their own refineries outside this country. But the Government realised that if this was allowed, we were going to kill our own oil refinery, with the attendant consequences of loss of jobs. That is why we have put the requirement of 500 metric tonnes of crude oil, which must be imported by a particular company to qualify to bring in refined products.

However, companies such as Shell and Caltex are also shareholders in the oil refinery and that is why we are telling them that we are bound together; and that we should invest jointly to

improve and upgrade our refinery to be able to produce unleaded gasoline so that we can retain the jobs available in the oil refinery plant. It should not be that the Government is forced to meet the cost of additional investment when these companies will enjoy the profits that will accrue as a result of that investment.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, I am very grateful to the Minister for the explanation he has given. But I want to know from him the time frame, because he is talking about what he is going to do. Could he do us a favour by coming back to this House later and tell us how much he will have achieved on what he has promised the House, in a broad sense? He should not sit alone and decide on these matters and come up with a decision which we may have to question. Could he come back to the House later, and tell us what he has done?

**Mr. Raila:** Mr. Deputy Speaker, Sir, I do not need to come back to the House later, because I have got the data with me. I want to inform the House that we commissioned a study, funded by the Deutsche Bank to upgrade the oil refinery. That report is out and it was discussed by our technical experts last Friday. It quantifies the amount of money that is needed to upgrade the oil refinery to the standard that is required to serve the needs of this country for the next 30 years. The investment is in the region of about US\$100 million. The issue is how to meet that cost.

We are also discussing with other countries on this matter. Nigeria has offered to come and invest in our oil refinery, so long as the Government is going to retain part of the shares. The Nigerian Government is willing to enter into a joint venture with the Kenyan Government to improve the refinery. That way, the Nigerian Government is willing to sell crude oil to us at concessional rates. This is in order to promote inter-African trade which President Obasanjo has been trying to promote since he came to power. That is why I am saying the issue of unleaded gasoline has been given a phased-out programme of five years, effective from this year. Within that period, we will have upgraded our oil refinery and we will be able to produce unleaded gasoline, and we will have a modern oil refinery that will be able to produce all other products, beginning from the white products, LPG, fuel oil, tar and so on.

**Mr. Deputy Speaker:** Next Question, Mr. Angwenyi!

The Question will be deferred because Mr. Angwenyi is out of the country.

#### REPAIR OF DARAJA MBILI BRIDGE IN KISII TOWN

**(Mr. Angwenyi)** to ask the Minister for Roads and Public Works:-

- (a) Is the Minister aware that Daraja Mbili Bridge, connecting Kisii Central Town and Industrial Area (Road E218) was washed away a few months ago?
- (b) Is he further aware that the road E218, Daraja Mbili-Kiongongi-Nyatieko-Eroge-Bonyunyu is impassable?
- (c) What urgent measures is the Minister taking to ensure that the bridge and the road are repaired?

*(Question deferred)*

#### ESTABLISHMENT OF SPECIAL COURTS IN KASARANI/JUJA/DAGORETTI

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice.

- (a) Is the Attorney-General aware that there are many Kenyans who are in remands awaiting trial by the courts and that the courts are unable to deal with the cases within 30 days?
- (b) Could he consider establishing special criminal courts to try these cases?
- (c) What plans are there to establish courts in Kasarani, Juja and Dagoretti constituencies in Nairobi?

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, I beg to reply.

- (a) Yes, I am aware that there are many remandees awaiting trial by the courts.
- (b) With a view to reducing the backlog of cases, a number of judges and magistrates have been appointed in the recent past. For instance, in the year 2000, 24 District Magistrates were employed. In the year 2001, we have employed an additional 26 magistrates. During the period 2000-2001, ten High Court Judges have been appointed.

(c) Although I agree that there is need to establish more courts in the country, including the periphery of Nairobi, as indicated in the Question, there is lack of adequate funds to make it feasible immediately.

**Mr. Muchiri:** The hon. Attorney-General has agreed that thousands of Kenyans are in remand, awaiting trial. Some have been in the cells for a period of over one year and they might be acquitted eventually. In view of the fact that the courts in existence today are unable to try these people, could he consider establishing special courts to deal with these people and to finish these cases within 14 days or 30 days, rather than keep on remanding these people for years?

**Mr. Wako:** Mr. Deputy Speaker, Sir, all the Magistrate Courts - and there are over 380 magistrates throughout the country - are focused mainly on hearing criminal cases. There is an establishment of over 500 magistrates and the shortfall is because of lack of funds to employ slightly over 100 magistrates. We also lack facilities such as court rooms and many other attendant services that go with the establishment of any court.

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, we are not going to allow the Attorney-General to say that lack of funds is to blame for the delay of these cases. We know that justice delayed is justice denied. What the Attorney-General is telling us today is that in Kenya, justice is going to be delayed because of lack of funds. Could he agree with me that the problem in this particular case is not even lack of magistrates and courts? The problem lies within the Prisons Department. They have no transport to transport those remandees to the courts. The Magistrate in Thika Law Courts stays the whole day, waiting for people to be brought in from Kamiti and other prisons for trial. Kamiti Prison, for instance, has got only two lorries that serve Nairobi, Makadara, Kibera and Thika law courts.

**Mr. Deputy Speaker:** Order, hon. Ndicho! You have already asked your question, but now, you are making a speech!

**Mr. Ndicho:** I am sorry, Mr. Deputy Speaker, Sir.

**Mr. Wako:** Mr. Deputy Speaker, Sir, the problem cannot be attributed to one cause only. There are many causes as to why that is happening. I agree with the hon. Member that one of the causes is lack of a good transport system. There are many other causes. But the Government, with its limited resources, is trying to build as many additional courts as it can.

For example, in the year 2000, the Government built courts in Moyale and Mandera. The Thika, Kakamega, Kisumu and Kilifi courts were expanded. This year, there are on-going projects to build courts in Garissa, Kehancha in Gucha District, Karatina, Meru and Madaraka in Nairobi. Next year, we will build courts in Naivasha, Marsabit and at the Income Tax House. So, what I am saying is that we have, at least, 100 additional magistrates, but we cannot build 100 courts overnight. We can only build in accordance with the available resources. But we are trying our best in the way that I have just described.

**Mr. Shill:** Mr. Deputy Speaker, Sir, I am really worried about remand people waiting for trial in courts.

Recently, we visited the Industrial Area Prison in Nairobi and found many young Kenyans charged with petty offences. Could the Attorney-General confirm or deny whether there are 138 young men remanded at the Industrial Area Prison for petty crimes for over one year without trial?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I cannot confirm or deny that assertion, but I would not be surprised! He may be right! On the issue of remand persons and convicted prisoners sentenced to three or less years in jail, you may recall that this House passed the Community Service Order Bill. I am glad that, that Bill is being implemented. There are many people serving community services, who would, otherwise, be in custody in prison. Two years ago, I exercised my powers and terminated over 5,000 pending cases of the nature described by the hon. Member. Over 5,000 persons benefited in that manner. In other words, persons who were awaiting trial for petty offences and had been in custody for more than six months had their cases terminated. It is the intention of the Attorney-General to continue with that exercise on a yearly basis throughout the country.

**Mr. Waithaka:** Mr. Deputy Speaker, Sir, is the Attorney-General aware that one of the problems that we face in our courts is the discretion used by the magistrates in granting bail. For you to get both a bail and a surety, you have to provide a title deed and a certificate of official search. That means that, if you want to bail out somebody and you have a title deed registered in Kisumu, you will have to go to the Kisumu Land Registry to get a search. That is becoming very cumbersome. The rationale or principle behind granting bail is to ensure that, that person will avail himself for trial in court. Recently, we had a person of the calibre of a professor of law, that is Prof. Kibwana, being asked to get a surety with a title deed and a search certificate. You know that, for all intents and purposes, the charge that he was facing was petty. He is a Professor in law who cannot run away from the jurisdiction of the court. Could the Attorney-General take the initiative and send circulars instructing the magistrates to do away with the issue of bringing a search certificate, if you are surety to a person charged with a petty criminal case?

**Mr. Wako:** Mr. Deputy Speaker, Sir, the law must be applied uniformly. I have known professors of law in other jurisdictions who have run away from cases. But we have held a number of seminars where the issue



of when to grant bail and on what terms has been discussed. I believe the entire magistracy, in the knowledge of the congestion that we have in custody, should be more lenient on the terms of granting bail. I think they are exercising that. One has to take into account the seriousness of the offence and other factors. But where the offence is petty and so on, bail ought to be granted. But it is all within the discretion of the magistrate. They have been sensitised to that problem.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, as one who has suffered injustice of his courts--- In the first place, why are we talking about many remand prisoners? Could the Attorney-General actually tell us how many remand prisoners are in this country today? That way, we can understand the magnitude of the problem. But in relation to the question raised by Mr. Waithaka, bail is a constitutional right. Where does the question of discretion come in? Could he tell us how many prisoners have been denied bail, leave alone those who are not able to meet the terms of bail? How many have actually been denied bail and why? Let us have the real figures! Let us not just talk in parables!

**Mr. Wako:** Mr. Deputy Speaker, Sir, at the moment, I cannot give you the exact number of people who have been denied bail and who are in remand. But bail, although it is a right, has to be given by the court in the exercise of its judicial discretion. I think the problem does not come so much in the granting of the bail. Bail is normally granted apart from cases of murder and other capital offences. Bail is granted, but what one needs to focus on are the provisions of the bail which, at times, deny the bail because they may be too high. I think that is a complaint that Members of Parliament have put across. That is an issue that has been addressed under various fora by magistrates, on what terms and circumstances should bail be granted.

**Mr. Muhiha:** Mr. Deputy Speaker, Sir, you will agree with me that it is better to be in jail serving a sentence than being in remand prison! In view of---

**Mr. Deputy Speaker:** I do not agree with you because I do not know the difference!

**Mr. Muhiha:** It is better, Mr. Deputy Speaker, Sir! In view of the Attorney-General's acceptance that there have been so many pending cases, could he take it upon himself to release all the petty offenders who have been in remand prison for more than six months without trial? Could he take that opportunity to release those petty offenders?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I cannot undertake to do that. What I can tell this House is that the exercise that was undertaken throughout the country two years ago will also be exercised. All appropriate cases will be terminated, but we have to decide each case on its own merit.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, if I understood the Attorney-General correctly, I think his problem is that of courts; he has the personnel. He knows very well that a court is any place where a magistrate works. Could he establish mobile courts in Nairobi, Ruiru, Dagoretti and Kasarani constituencies because we have a problem? Thousands of young men are languishing in Kamiti Maximum Prison and others in Industrial Area Prison.

**Mr. Wako:** Mr. Deputy Speaker, Sir, I know what the hon. Member is referring to. I also know that the Kwach Report did mention that we should have courts all over the country and they made some specific mentions, like Kasarani, Juja and Dagoretti. On the issue of mobile courts, the Judicial Service Commission is actively giving consideration to it. But I cannot at this moment say that we can have mobile courts. The hon. Member should try to follow the example of his colleagues in Meru, who have, through Harambee effort, put up courts or extended the existing courts in Tigania and Maua. So, in his area, if he could identify the plots where the courts can be put up, and if he could have a fund-raising, I will be there also to contribute towards the building of the courts. That will be a very good way of assisting his constituents in ensuring that justice is done expeditiously.

**Mr. Deputy Speaker:** Thank you. That is the end of Question Time.  
Next Order!

## POINTS OF ORDER

### CONTEMPT OF THE HOUSE BY MINISTERS

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. This morning you did make a ruling with respect to Ministers who fail to answer legitimate Questions. We have had many instances in this House where Ministers either fail to answer Questions, or they are told to go back and answer a Question on a particular day and they do not come, or they are supposed to come back with some statement, but they never do it. This amounts to contempt of the House on the part of those Ministers.

Mr. Deputy Speaker, Sir, I do now want to raise an issue that I consider contempt of the House by the

Ministry of Vocational Training. I am referring to the Ministry because it is the Minister who is in charge, but the Question that came up in the House was answered by his Assistant Minister. On 2nd August, I brought a Question to this House with respect to youth polytechnics in Kitutu Masaba Constituency. The Assistant Minister, Mr. Ethuro, did tell me that two youth polytechnics had received grants. In the year 1999/2000, he told me that a youth polytechnic called Enchoro had been given Kshs369,000, and another one called Kenyerere was given Kshs63,709. Then he said in 2000/2001, the same two polytechnics got Kshs83,840 and Kshs78,040, respectively. Because I had evidence that no money had been received, I tabled letters here from those youth polytechnics to indicate that this money had not been received. The Assistant Minister then promised the House that he would get the evidence from the Ministry and bring it to this House. I have been following it up with him and I have got promises outside in the corridors of Parliament, including yesterday, when I was told that the Permanent Secretary is unwilling to give the information to the Assistant Minister. This is contempt of the House.

Mr. Deputy Speaker, Sir, I want to find out from you what to do, generally, on issues of this kind. I would have thought it is the pride of Ministers to come to this House and expound on Government policies and show us the authority of the Government in managing this country. When Ministers run away from Parliament, then I do not know how we can run this country.

I am raising a general issue of Ministers who make promises and who are asked by the House to do certain things, but they never come back. I am particularly asking about this Question by Private Notice I asked on 2nd August, to which I got an answer which I challenged and I was promised that the figures would be given to this House, and that has not been done to this day.

#### FATE OF TREE SEEDLINGS IN MT. KENYA FOREST

**Dr. Murungaru:** On a point of order, Mr. Deputy Speaker, Sir. I rise on a similar issue as the one raised by Mr. Anyona. On two occasions during the last two weeks, I have sought a Ministerial Statement regarding one million tree seedlings in Mt. Kenya Forest that are at the risk of going to waste if they are not planted during this rainy season. I have not received any response and I have heard from certain offices within this Parliament that it is on account of the fact that the concerned Minister has not been in the House when I raised the issue. There is the principle of collective responsibility. Surely, the absence of one single Minister cannot shut down the functioning of a whole department of Government, and particularly, one as critical as the one that is looking after our environment. I need your guidance. I need to know how to deal with this issue because the Forestry Department officers are lying there helpless. They have not been given guidelines and directions from their Minister.

**The Minister of State, Office of the President (Mr. ole Sunkuli):** Mr. Deputy Speaker, Sir, I would like to give a more comprehensive response to this issue of failures or perceived failures of Ministers, so that we can be able to understand one another with Members on that side.

**Mr. Deputy Speaker:** Order! Order! It is, of course, a grave matter if promises are made in this House and they are not fulfilled. The Speaker did rule two weeks ago that he will take a very dim view of Ministers who do not turn up in the House to perform their functions. In fact, he did indicate that from now henceforth, they will be named. I want to reiterate that, that is the position of the Chair.

Our Standing Orders are not specific on the time a Minister should be allowed before he comes back to this House with the promised answer. From now henceforth, it will be only one week and if a Minister who is required to make a statement does not make it within one week, then I am afraid the Chair will be obliged to take action.

In respect of Dr. Murungaru's and Mr. Anyona's issues, I want this message transmitted to the Ministers concerned; that on Tuesday next week, they must be in the Chamber to make those statements as required by our rules and regulations. Let it be known and heard clearly that we will not allow Ministers to extend the period of issuing statements in the House beyond one week this period including days when Parliament is not sitting.

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. I think the Chair has talked about that issue for a long time. Would I be in order to ask the Chair to "bite" one Minister with the teeth that we have given the Chair? You should even write a letter to the President that this Minister is not coming to the House, and we all sign that letter so that he is sacked. That is the only way we will protect the dignity of the House.

**Mr. Deputy Speaker:** Order, Mr. Ndicho! You know what the Standing Orders say about naming. The responsibility eventually lies with the Chair, but there must be an accuser to stand up and accuse an hon. Member and tell us what happened.

Next Order!

## MOTIONS

## PRIVATISATION OF MZIMA SPRINGS II PROJECT

THAT, in view of the significant role water resources play in the day-to-day life; and being aware of the insufficient water supply in both Eastern and Coast regions, this House urges the Government to privatise the construction of Mzima Springs II in order to supply water to Mombasa and all towns along the pipeline for human consumption and irrigation.

*(Mr. Mwakiringo on 14.11.2001)*

*(Resumption of debate interrupted on 14.11.2001)*

Proceed, Mr. Keah. You were on the Floor. You have five minutes.

**The Assistant Minister for Transport and Communications** (Mr. Keah): Thank you, Mr. Deputy Speaker, Sir. I will continue from where I left last week by supporting this Motion in *toto*. I want to add further that the Motion calling for the construction of Mzima Springs II by a private developer is indeed, commendable. That action needs to be taken because it is the only saviour we have, particularly when donors give us strict conditions and at a time when their funding has become almost unobtainable these days. The only way we can accelerate our development is to agree on a country policy where we will revert to private developers to build, operate and construct major projects such as this one.

Therefore, I do support this Motion and urge that we should not delay any more in implementing majority of the major water projects that cannot get Government or donor funding. We should go straightaway to build and operate on transfer basis. Therefore, I would urge the Minister for Water Development to support this Motion. We have a 15-year delay in the construction of Mzima Spring II Project. We ought to straightaway go to this particular basis so that the job can begin immediately without any further delay. I say so because we are suffering. Poverty is looming because of lack of water in the lower part of Coast Province that has been served by the Mzima Springs for many years. Even now, as we speak, water in Mombasa is being rationed simply because the pipe which is in place keeps on breaking almost every other day. No sooner is a portion of it repaired than the next portion gives in, and this affects water supply in Mombasa.

It is high time that pipeline development was enhanced by ensuring that in the planning process, we not only provide sufficient water for people, but also for the wildlife in order to encourage tourism. This will ensure that the satellite towns all the way from Mtito Andei right up to Mombasa are developed to accommodate the increasing population. There are a number of settlements along the pipeline, all the way from Mtito Andei right down to Mombasa, and I am afraid they are in dire trouble if they are not provided with water. I would also urge for the immediate construction of this pipeline because this will encourage industrialisation along the pipelines. We have the EPZ which was to be established near Mariakani and this has to some extent aborted. Even if it had not, the water problem was one of those acute issues that had to be dealt with. The EPZ would not be operational without the water from the Mzima Spring II Project, which has stalled for the last 15 years. We have lost a good 15 years since this project stalled. Let us not lose any more.

I beg to support.

**Prof. Anyang'-Nyong'o**: Mr. Deputy Speaker, Sir, I rise to support this Motion, but with a qualifier.

I would have liked the Motion to urge the Government to complete the construction of Mzima Springs II in order to supply water to Mombasa and towns along the pipeline for human consumption and irrigation without necessarily asking that this project be privatised because the responsibility of the Government is to supply its people with basic services like water. One of the reasons why the donors are not giving this Government money is because they feel that the Government is not fulfilling its duty.

The provision of clean drinkable water, including harvesting of rain water, is a very simple thing especially in a country like Kenya with so much water resources. During colonial times - the colonial government was regarded by Africans as a hostile government - all towns had clean drinkable water. There was no problem of getting typhoid because of water in towns. Forty years after Independence, I am afraid to drink tap water from my house in Nairobi because I can contract all sorts of diseases. One day I opened the tap for water and a frog came through. This shows just how much deterioration we have had in the infrastructure of providing utilities like water.

When the Government planned a long time ago to have this Mzima Springs II Project, it must have

known what it would cost and the catchment area that this water supply needed to deal with. Privatisation of this project is not the solution. Privatisation by itself does not necessarily solve problems. It has been shown in Cote d'Ivoire, for example, that you can only successfully privatise water supply when in the first place you have had private companies supply water with the experience to take over what the government is doing. In a situation where you have not had private enterprises supplying water, trying to privatise these large concerns may not be successful. For example, were you to privatise water supply in Nairobi and you say that company "a" should supply water in Kibera; company "b" in Madaraka and so on, and you do not have a strong regulatory mechanism to ensure that the private water supply obeys certain standards, you will find a business person supplying untreated water in Kibera and bribing officials along the way to certify that, that water is treated. You will have worse problems there than when you have the Government overseeing water supply because, at least, the Government has a Ministry with officials specifically employed to implement certain standards, according to what has been passed by this House.

Mr. Deputy Speaker, Sir, I am very much worried about this jumping to the conclusion that privatisation of water supply is the solution because the Government has failed. My point would be: Let the Government wake up to its duty of providing social and physical infrastructure like water, basic health services and education. Those are three major social infrastructures whose provision the Government should occupy itself with. Secondly, the Government should provide the physical infrastructure like roads, railway lines and telephone services. That is an area which the Government should begin to privatise because there is already an experience of companies which have run private telephone lines which can come in and do it.

Mr. Deputy Speaker, Sir, even when you go to Europe today, France in particular, you will find that water supply is still a Government-run thing. In towns in Germany, water supply is a Government responsibility. In Britain and the US, it is the same thing. In the United States of America, Chicago City is very big, but you cannot go there and tell the Chicagoans that their water is going to be supplied by some Smith Hempstone or whoever. No! They know that the city government would supply it. Mexico has 28 million people and their water is supplied by the City of Mexico. I do not understand how in a little Mombasa down there, this Government wants to give some private concern to supply water. What is the Government doing?

Mr. Deputy Speaker, Sir, we are already voting money in this House which is the Local Authority Transfer Fund (LATF), which we were talking about this morning. If we realise that the local authorities should run certain services and the National Assembly can vote money to go and run those services, let those local authorities run their services. After all, what kind of services is the Mombasa Municipal Council going to run if it does not run water and basic health services? What else is it going to do? Just collecting rates in the markets? Anybody can collect rates in the markets but, surely, there must be certain basic services that the Government must provide for the people.

Mr. Deputy Speaker, Sir, thirdly, the Minister has stood up here and said in very flowing English: "Yes, we want this pipeline." Constructing a pipeline for water is not different from constructing a pipeline for oil. The Kenya Pipeline Company (KPC) is the public body responsible for piping oil from Mombasa to the other side of the country; that is Kisumu, Eldoret and so on. It is a Government body. What stops this Government from doing a very simple thing of piping water from Mzimba Springs II to Mombasa, if a Government corporation can do a much more complicated thing of piping oil from one part of the country, across the nation to the other part? Hon. Raila was just explaining here this morning that in that pipe, we have all kinds of oil, like diesel, *et cetera*. Somehow, there is technology and knowledge by the state, and it should do it. For water, you do not need hydrogen and oxygen to travel separately. They are there in one formula. What is the problem? Why are you looking at the private sector to do it for you?

Mr. Deputy Speaker, Sir, the problem with you people is corruption and mismanagement. Two things; corruption and mismanagement! Let us deal with those two things. Corruption first, and then mismanagement later, and these things will work. However, when Ministers who have been convicted of being corrupt still sit in the Government and run it, the country cannot have any confidence. That is the truth! If really we are going to tell this country that we are going to get money from the National Assembly to run Government services, we must, first of all, be honest enough to be as clean as Caesar's wife. Unfortunately, our "Caesar" does not have a wife but, nonetheless---

**Mr. Kiminza:** On a point of order, Mr. Deputy Speaker, Sir. I would like to seek a clarification from the Chair: Could the Member who is on the Floor inform the House which Minister has been convicted? We know of a number of Ministers whose cases have been taken to court, but we have never heard of any conviction. Which Minister is this?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, the Minister has been convicted in the "court of conscience". There is no obligation whatsoever to obey an unjust law. We, as Kenyans, refuse to obey the unjust

law being administered by our judges and magistrates. When the Public Investments Committee (PIC), which I chaired for two years, had a hookline (?), proof that a Minister who was not then a Minister, was responsible for mismanaging public affairs by paying a consultant Kshs97 million a year--- Having retired the fellow this year with a salary of about Kshs10,000, you then convert him into a consultant and pay him Kshs97 million from the public coffers; then this thing goes to court and a judge says there is no case to answer. In the "court of conscience", the Kenyans have convicted these Ministers. These Ministers cannot, in conscience, sit to manage public affairs after things like those have happened. This is why the hon. Member has said that such services should be privatised because they have no confidence in the people running them. However, privatisation is not the issue; the issue is to deal with mismanagement and corruption.

Mr. Deputy Speaker, Sir, as I have shown that KPC can pipe oil from Mombasa to Eldoret, it stands to reason that the Minister for Water Development can also build a pipeline from Mzima II to Mombasa and run it effectively, if it is not mismanaged and there is no corruption. So, the issues that we are facing are corruption and mismanagement. Otherwise, once those are done away with, our public sector can be run well. Let us not cheat ourselves, but in the so-called developed nations, the state is still doing a lot of things. In Germany, for example, education from primary school to university is in the hands of the state. To go to a private school in Germany is an exception. People go to public schools but here, because of the mismanagement of the education system, we are now forced to spend our meagre salaries sending children to expensive schools. In nursery school, for just one term, you have to pay Kshs26,000. Who can afford that? For a primary school, you have to pay Kshs78,000 for one term. Who can afford that? If this money was properly used in the public sector, we would have very cheap services run by the Government and we would not be coming to this House asking it to privatise a thing like this.

I beg to support.

**Mr. Kajembe:** Mr. Deputy Speaker, Sir, I stand to support this Motion. I entirely support the Mover of this Motion that Mzima Springs II should be privatised. I would like to go further and say that even the Mzima Springs I, which is the current pipeline we have from Mzima to Mombasa, it experiences bursts every month. People from Taita to Mombasa never get adequate water.

Mr. Deputy Speaker, Sir, I do believe that there is no clear policy on water in this country. So, I call upon the Minister for Water Development to come up with a clear water policy. This is because today, in Kenya, some local authorities undertake water tasks. You find that some local authorities do not undertake water tasks. So, there is no clear policy as far as water tasks are concerned. Even the National Water Conservation and Pipeline Corporation has failed to deliver water services to this nation.

Mr. Deputy Speaker, Sir, the majority of Kenyans do not get clean water and yet, we have a corporation charged with the responsibility of providing clean water to wananchi. I would advise the Minister that apart from privatising the proposed pipeline from Mzima to Mombasa, he should do the same for Mzima I Springs because the National Water Conservation and Pipeline Corporation has failed to maintain that pipeline. Mr. Deputy Speaker, Sir, as I talk now, there has been no water in Mombasa for the past week. My constituency, Changanwe, is badly hit. We do not have water for cooking and drinking. This is to say that we do not have water for showering. I left Mombasa this morning and I did not take my shower because there is no water. So, I am saying that the National Water Conservation and Pipeline Corporation has completely failed. I am requesting the Minister for Water Development to consider dissolving the National Water Conservation and Pipeline Corporation since it is not doing any good to the people of this country. At the same time, I support Mzima Springs II Project. I also entirely agree with the Mover that once phase II of the pipeline is built, it should be privatised.

Mr. Deputy Speaker, Sir, I do not support that water undertaking should be done by local authorities because it has been proven that they have failed to give water to the citizens of this country, including the Nairobi City Council. Parliament should come up with a clear policy, which can only come from the Minister for Water Resources, then, we will decide what we will do. We have sea water in the whole of coastal strip. That water can also be used for human consumption, if the right technology is used.

Right now, as I am talking, KenGen, which is providing electric power to the Kenya Power and Lighting Company, has got equipment which can treat water for human consumption without further costs. I would request the Minister for Water Resources to liaise with the Minister for Energy so that they can use that equipment at KenGen. It is just lying idle; it is not being used. We can still change the sea water for drinking purposes. Again, we have Lake Victoria, and if that water is treated well by the Ministry, it can also be used for drinking.

Other countries in the world have gone into banking water, like Israel, Saudi Arabia and most of the Gulf States. They bank water when it rains. We had the *El Nino* rains in Kenya, but because we do not have dams which we can use to harvest the rain water; or because we do not have any water banks, the rain water swept away all our natural resources and damaged our infrastructure. We were unable to bank that water. The Minister should reconsider building dams for the purposes of banking water whenever it rains. It is very much interesting to know

that most of the water that Kenyans drink is not treated. Kenyans get typhoid and other diseases. When they go to the hospitals, they cannot afford the expensive medication because some of them are unemployed and do not have any good income. They cannot pay for their share of treatment in the hospitals because of the existing cost-sharing method.

So, water contributes to death of Kenyans today because neither the Ministry nor the National Water Conservation and Pipeline Board (NWCP), is interested in seeing that the water that every Kenyan drinks is treated. I would suggest that, apart from the water pipelines that we have in Kenya, we should also create places where the Ministry will make water available for our wild animals in our game reserves. They are dying mainly because of lack of water. Let us not only think about sources of water for human beings, but also for our wildlife and domestic animals. This is because the number of tourists who come to Kenya would not only like to see Kenya as a shell, but to visit game reserves in order to see the wildlife. We have to make sure that these animals survive.

Our tourism scenery is natural, and that is why many countries cannot compete with Kenya. It is man-made tourism unlike other countries. The Minister should consider providing water to wildlife, and not to provide dirty water. Also, dirty water should be treated to ensure that the animals which drink it do not die. If I belonged to the management of the NWCP, I would have resigned; it is only that the management staff of NWCP do not feel shy to remain in office. They are earning from taxpayers' money and they do not do what they are required to do by this country.

I want to tell this House that we, in Coast Province, have been made victims of circumstances, because we lack enough water. If this continues in Mombasa, we will ask our people to stage a very big demonstration to the offices of the Ministry in Mombasa in order to register our dissatisfaction with the NWCP.

I support the Motion.

**Mr. Parpai:** Thank you, Mr. Deputy Speaker, Sir. Water is life and we need it in order to live. It is unfortunate that hon. Members are resolving to privatise some of the basic needs and this is a result of things having fallen apart in this Government. The Government is unable to manage anything or mention anything. If you go to any Ministry that deals with the infrastructure, you will find that everything is in shit. Everything has fallen apart.

All parastatals have been unable to perform because of corruption and nepotism. Kenyans are tired. If you go to these private undertakings that we are talking about, you will find that they are not also performing because the same people who have messed up parastatals and Government institutions have also infiltrated into those private institutions. In fact, even when you talk of privatising Mzima Springs II Project--- The Government will, indeed, be happy to implement this Motion. But if that happens, the same people who refused to implement it or to allow the Government to undertake this project, will jump in and erect that pipeline. So, I do not know what Kenyans should turn to. Mzima II is a very important project if it were to be implemented. I do not understand why the Government should not construct the pipeline. After all, public funds have already been used to carry out a feasibility study of the project. Did whoever authorised the feasibility study of the project 15 years ago not know the source of the money for its implementation? The feasibility study yielded positive results; it is clear that Mzima Spring has plenty of water which can be supplied to Mombasa, Taveta and Loitokitok in my constituency. Why was the feasibility study carried out if the Government had no intention of implementing the project?

Mr. Deputy Speaker, Sir, contraction of consultancy services is what has impoverished Kenyans. Every parastatal and Ministry has paid out millions of shillings to consultancy firms for feasibility studies carried out on one project or another. Equally, millions of shillings were paid out to the firm that carried out the feasibility studies on this particular project. When replying to this debate, the Minister should tell us how much money has been used on this project and how he intends to make that expenditure beneficial to Kenyans. The payment was made from our tax money. So, we would like to know what he is going to do to ensure that our money does not go to waste. The Ministry carried out a feasibility study on the project, which indicates that there is plenty of water at that spring. We tend to think that feasibility studies are carried for the purpose of enriching a few individuals.

I would like the Mover to amend this Motion to vest the responsibility of implementing the project in the Government. The Government should not run away from its responsibility; it should rather implement this project. We already have the National Water Conservation and Pipeline Corporation (NWCPC) which, as my colleague, Mr. Kajembe, said, has failed. So, we need to amend this Motion to read that---

**Mr. Deputy Speaker:** Order! Are you now proposing an amendment to the Motion?

**Mr. Parpai:** Mr. Deputy Speaker, Sir, at this juncture, I am not; I am just proposing this to the Mover. I am saying this because the NWCPC has failed. In my constituency, we have the Nolturesh Water Project, which is really problematic. The Minister once visited that area. He is aware that we are being made to pay for water we have not consumed. Meter readers have also come up with their own formula of charging consumers. So, I request the Minister to do something about that project; it is really hurting people.

A lot of water has been pumped out of the river, to an extent that its downstream has dried up. I have talked to the Minister severally about this issue. I have raised it here time and again. Also, the issue was discussed at several other fora. We have requested the Minister to do something about the project because the river on which it relies has dried up downstream, and the people are suffering. Schools have been closed while dips have been abandoned. It is pointless to assist a certain society, leaving other people to suffer. So, this is a matter we would like the Minister to address when he responds to this debate.

Mr. Temporary Deputy Speaker, Sir, about two weeks ago, I had the opportunity to visit the North Eastern Province. I discovered that the soil in that area is as fertile as that in other parts of the country. Residents in that province can be as rich as those in Central Province if only the Ministry of Natural Resources could take its job seriously. That area only requires boreholes and dams to be self-sufficient in food production. I do not even understand why Members of Parliament from the North Eastern Province support this Government. There is no water in that area; people are suffering. What is required to alleviate the suffering is merely dams and boreholes. River Tana flows along the province. Why does the Government not utilise water from River Tana? Really, the Ministry should do something about the welfare of Kenyans. Water is life. Without water, there will be no people. Before we even talk about providing people with clean water, we should ensure that our livestock have drinking water, and that we have water for irrigation purposes. So, the Minister should come up with a master plan to assist Kenyans.

The Minister should also empower the Bailiff Department in the Ministry. A lot of water is being pumped out of rivers illegally and without due consideration of other users of the commodity. So, the department should be empowered to check misuse of river water. Officers in this department should be provided with motorbikes so that they can patrol our rivers. Let us have the relevant Act amended, to give the relevant officers some teeth so that people who violate the law can be taken to court, so that the use of river water can be streamlined. I am sure that if this is done, nobody downstream will suffer. A lot of water is being pumped out of our rivers, leaving people downstream to suffer.

Mr. Deputy Speaker, Sir, with those few remarks, I support.

**The Assistant Minister for Labour and Human Resource Development** (Mr. Ethuro): Mr. Deputy Speaker, Sir, I rise to support this Motion. We cannot get tired of saying that water is life, particularly considering that 80 per cent of this country's land mass comprises of arid and semi-arid land (ASAL). So, we need water. It is the basic requirement of life.

Mr. Deputy Speaker, Sir, Mombasa being the second largest town in this Republic, we must ensure that it has sufficient water supply not only because the town is big, but rather because of the industrial activities that take place there, particularly tourism. As tourism is a major industry which gives us a lot of income, the Government should be very serious and invest in it; it should invest where it generates income. The Government should ensure that all is well in Mombasa so that we can continue attracting foreign tourists and encourage domestic tourism, and so that we can continue generating enough revenue.

My colleagues on the opposite side of the House may interpret this differently; they may feel that the Government has failed. But I can assure you that something has gone drastically wrong with Kenyans. The value system and professionalism amongst our water engineers and other professionals is wanting. The people who come to disconnect your water do not even want you to pay the Nairobi City Council; they want to be paid directly. Is that a problem of the Government or of the nature of our politics? It is a problem of some individuals. Most local authorities in this country are not run by KANU but rather by the Opposition.

I would not like us to politicise this issue again, divide the nation and make us lose focus of the fact that we have to nurture professionalism. We should ensure that there are competent engineers who can enable us tap our water resources; there is a lot of incompetence.

We sit in our respective District Development Committees, among other committees. The District Water Engineer in Turkana District cannot even give you the basic formula of accessing underground water. He cannot even advise willing non-governmental organisations on the most likely places they can drill boreholes and access water. That is the biggest problem I have experienced. We should privatise water services where possible. The Government has employed this policy selectively because in some places within the ASAL areas, without the basic water infrastructure, we cannot really afford to privatise the service. I think we should privatise Mzima Springs Project. However, we cannot privatise water resources in all these areas. The Government has now basically left water issues to institutions with people who do not know their job well. They do not have adequately trained manpower. They just pick a few people from anywhere and put them on the job, not knowing that water provision is a highly technical field.

Mr. Deputy Speaker, Sir, this Motion is calling upon the Minister for Water Development to rethink his Ministry's capacity to deliver basic water resources in this country. In Turkana from where I come, there are areas

where economic activities are viable, but water is not available. This means that in areas where we need to exploit economic opportunities, we cannot do it because there is no water. This is just because an officer cannot advise properly.

I also would suggest that we should construct a water pipeline from Turkwel Gorge. This is a big disadvantage to us; the Turkwel Gorge produces power which is connected to the national grid, 220 kilometres away from Turkana and West

Pokot districts. There should be benefits to the neighbouring communities accruing from certain projects. The Turkwel Gorge Hydro Power Project should benefit our people through the construction of a water pipeline from the project to supply water to all the problematic areas in Turkana on a priority basis. That should have been done a long time ago.

Mr. Deputy Speaker, Sir, we need water, not only for domestic use, but also for irrigation. Given the precarious food security in this country, and that this is basically a farming country, we need to really make sure that we have sufficient water resources in order to irrigate enough land. Our land is productive and we just lack water. This will make even Turkana District produce enough food to support the whole population of this country. We do not need to be getting relief food from non-governmental organisations (NGOs) or donors such as the World Food Programme, but we can produce sufficient food if enough water is provided. On this basis, I would like to encourage even the military personnel to participate in water supply. They have some of the best drilling equipment and should be hired in some of these areas, particularly, the ASAL areas, to drill boreholes in order for the pastoralists to get water for domestic use and for their livestock.

I also call upon the Ministry to oversee the running of water projects. There are two projects in the ASAL areas, namely, the Garissa and the Kalokal(?) Water Projects. These are areas where water should have been provided as a priority, but because of corruption, money was squandered and the concerned officers were only transferred. These officers should be brought to book so that it will be obvious to Kenyans that the Government does not support corruption, but hates it with a passion. It is important that the officers who squandered money that was meant for these projects, particularly in these areas, are brought to book. The whole population in Kalokal(?) migrated out of this area because there was no water. When I was elected as the area Member of Parliament, we mobilised resources and were able to provide ourselves with water. But, unfortunately, because of drought, the water levels went down. This is again where I blame the officers. Instead of recommending boreholes, they recommended shallow wells. So in the event of a drought, it means that after all that investment, there will be no water.

*[Mr. Deputy Speaker left the Chair]*

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

That is why I am saying that the Ministry has to reconsider many aspects. One of them is privatising water supplies where it is possible, and the other one is to ensure that there is basic minimum infrastructure in some of these areas in our country where we should look into issues such as boreholes drilling. We need to look into the issue of dams construction, both surface and sub-surface dams. We also need to look into rain water harvesting techniques. You will find that in ASAL areas, there is a lot of run-off water during the rainy season. For example, during the last short rains season, we received a lot of water. It comes in big quantities and drains into big water masses. So, if we could borrow technologies developed by countries such as Israel, which has developed rain-water-harvesting techniques, then we would get water when there are rains and continue using that water when there are no rains.

With those few remarks, I support the Motion.

**The Minister for Water Development** (Mr. arap Ng'eny): Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion as proposed. We all appreciate the importance of water. As often said, water is life, and truly it is. Without water, we cannot think of any other social or economic development.

The Motion is very much in the spirit of the Government policy, as stated in the Sessional Paper No.1 of 1999, which was laid on the Table of this House. It was exhaustively debated and passed. In that Paper, a number of very crucial policy issues were expounded. One of the very important policy issues which was stated in the Paper was the privatisation of the water sector.

Mr. Temporary Deputy Speaker, Sir, I wish to state straightaway that privatisation of the water sector did not mean wholesale privatisation. It meant selective privatisation based on merits and demerits of such a proposal. It is a fact that in most countries, water supply is very much in the hands of the Government. Even in Kenya now,



the entire water supply projects are in the hands of the Government, Government-run institutions, local authorities and a few community schemes. In that situation, it was incumbent upon the Government to come up with a policy, and various interest groups, stakeholders and users of water were involved in it in the form of consultations which were held severally throughout the country.

The Sessional Paper No.1 of 1999 was a summary of the views of Kenyans, including the views of this House. You will recall that in the early 1990s, there was a very big clamour, not only in this House, but also by the public as a whole, for liberalisation and commercialisation. Liberalisation was not only confined to other sectors, but also touched on the water sector. That is why the Government has accepted in principle that certain water schemes should be privatised or commercialised.

I would like to state quite clearly that water supplies to Mombasa or the coastal region as a whole are fairly adequate. We have the major ones being Mzima Springs, Sabaki and Marere. A number of boreholes have been drilled and are operational, and others are being planned for drilling and also equipping for production of water for Mombasa residents and the coast region as a whole.

Mr. Temporary Deputy Speaker, Sir, with regard to the Mzima Springs II, its abstraction is 35,000 cubic metres per day at the moment. It is estimated that we should have another pipeline similar to this one, and particularly meant to serve Mombasa. But I must warn that we are all aware of the global climatic changes. We have been told that, perhaps, Mt. Kilimanjaro's ice will most likely melt in another 20 years to come.

Mr. Temporary Deputy Speaker, Sir, we have been told by experts; hydrologists, geologists and engineers, that the Mzima Springs II actually derives its water from the ice of Mt. Kilimanjaro. So, I would like to caution hon. Members that although we are enthusiastically looking for ways and means of constructing another pipeline to Mombasa from Mzima Springs II, we should be aware that, perhaps, in a few years' time, the possibility of getting that amount of water may not be there. Therefore, the Ministry is looking into alternative supplies of water to the Coast region. As I have said before, one of the sources which is most likely to last longer because of the catchment area, is the Sabaki River, which starts from Nairobi and goes all the way to Malindi. River Sabaki water can, perhaps, be considered as one of the best options to supply water to Mombasa and the Coast region. We have also carried out studies on the various alternative sites for water supply to Mombasa, and the best option will, perhaps, be considered for construction and implementation of that scheme.

Mr. Temporary Deputy Speaker, Sir, one other pitfall for Mzima Springs II, and which hon. Members should, perhaps, be made aware of is that, over a long time and in a number of countries, it has been found that long water pipelines face a lot of problems on the way. Imagine of the Mzima Springs II pipeline, which stretches for over 200 kilometres through various terrains, communities, consumers; including livestock areas and irrigation fields. All the way from the Mzima Springs II to Mombasa, there will be a lot of conflicting consumers. So, while enthusiastically embracing the idea of constructing another pipeline, we must be wary of the possibility of other problems that might arise. Right from the source, there will be a lot of demand for water. All along to Voi and Mombasa, there will be a lot of demand, and there will be a lot of people, animals and agricultural farms wanting to use that water. So, while the Government supports the construction of the second Mzima Springs pipeline, it is also cautious of the problems which might arise. Examples of such pipelines are many, including the one of Nolturesh, which comes from the slopes of Mt. Kilimanjaro. I am sure the Chair is aware of this matter because it has been discussed several times in this House, that there are problems. One of those problems is due to that fact that the pipeline is too long and it traverses various interest regions and communities with varying consumption demands.

Mr. Temporary Deputy Speaker, Sir, I would also like to touch on water in general. Water is extremely crucial for the development of this country. That is why the Government is putting a lot of emphasis on water. I would like to request this House to support the Government in assisting wananchi to appreciate the importance of water. We should all develop a collective responsibility as wananchi, leaders and the Government, with regard to water. This is because without that collective understanding and responsibility regarding water, we are likely to be a water-scarce country in a few years to come. As at now, we have about 30 per cent deficit of water. The only way to cover that deficit is to come up with proper water policies, which the Government has stipulated in the Sessional Paper No.1 of 1999. There should also be proper implementation and operational policies on water and, finally wananchi themselves should appreciate the importance of water for their own sustenance or development.

Mr. Temporary Deputy Speaker, Sir, on a number of occasions, we have touched on water from Lake Victoria. Lake Victoria water has been discussed in a number of fora, including this House. I would like to say that, the Lake Victoria water is a hot issue under discussion, not only in this country, but also in countries of East Africa and those of the Equatorial Lake Region comprising of about six countries, including the Democratic Republic Congo, Rwanda, Burundi, Uganda, Tanzania, Kenya and Ethiopia. The issue of Lake Victoria water is likely to be discussed for a long time. The view of Kenyans is that, we should be able to utilise our water resources

upstream before it reaches the lake. But the problem, as it has always been in other sectors, is the question of finances to implement water schemes in order to utilise the water which goes to Lake Victoria.

Mr. Temporary Deputy Speaker, Sir, we have also discussed a number of things concerning how to harness water resources, the river catchment areas, the dams, rocks and other water sources. The central point can be based on three things, namely, lack of policy or inadequacy of policy, institutional framework and wananchi. I would like to take wananchi as the most crucial factor among the three factors because without wananchi understanding what the Government is doing, it is very difficult to develop. For example, many people, and hon. Members of this House, are for privatisation, commercialisation, Government undertaking and so forth. But the most important thing among these is for wananchi to understand that at the end, it is the communities which finance and manage themselves and are given Government guidelines in terms of regulation.

Mr. Temporary Deputy Speaker, Sir, I do not want to anticipate debate on the Water Bill which will be brought to this House very soon. I would like to say that the Water Act will actually address most of the issues which have been raised in this House. It will also address the issues concerning water that have been raised by wananchi elsewhere. I hope that once the Bill is passed, wananchi, and particularly the leaders, will have an opportunity to work on a legal framework which will implement this project.

I support this Motion because it is in the spirit of the Government policy to selectively and gradually hand over the management and operation of water to wananchi. The Government will only remain with policy issues.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I support the Motion.

**The Temporary Deputy Speaker** (Mr. Muturi): I now call upon the Mover to reply!

**Mr. Mwakiringo:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. With your permission, I would like to donate two minutes to Mr. Murathe and Mr. Wamae respectively.

**Mr. Murathe:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Mover of the Motion for giving me two minutes to also support the Motion. As I speak, I am a very bitter man because the Minister has talked about all those nice things and ignored the direct co-relation between water resources and the other natural eco-systems, like forests. Where will water come from if, here, we are busy destroying the eco-system?

I come from Gatanga in Ndakaini which supplies water to most parts of Nairobi. I am in the Departmental Committee on Agriculture, Lands and Natural Resources. I would like to say that we toured the area and followed the pipeline from Nolturesh. You will be surprised that this water is used to irrigate flower farms and that is the reason why people cannot access water in Machakos and other areas. I would like to point out that my people of Gatanga do not access water from Ndakaini, which is used to irrigate flower farms in Athi River. Water is one of the resources for which people can legitimately go to war. Very soon, our people will say enough is enough. I appreciate that the policy framework is being reviewed, but it appears as if even when we carry out privatisation and commercialisation, we do not take into account the capacity of the people to afford water. How can we expect people in rural areas to pay the same rates as those who live in urban areas? The Minister did not address these issues when he was responding to this Motion. The Minister did not bring specifics here about the amount of money which has been made available for Mzima Springs II. I know this is part of the four-towns project, namely, Sabaki and others. He should tell us the amount of money that is available for this project.

Another minor issue that was brought up by Mr. Munyao when we were talking about dams is: What is the Government policy on water harvesting? What are we doing about harvesting flood water? We waste a lot of water in this country, and yet we have now developed better water-harvesting techniques by constructing very small and simple dams even in the farms of small communities. We do not have to depend on piped water for irrigation. I hope that when the Minister brings the Water Bill here, he will address these issues. He should tell us how communities from which these resources come from will benefit. I cannot justify how people in Gatanga can go to the rivers to fetch water while the people in Athi River use the water to irrigate their floricultural and horticultural farms.

Mr. Temporary Deputy Speaker, Sir, I thank the Mover for giving me two minutes.

**Mr. Wamae:** Mr. Temporary Deputy Speaker, Sir, I thank my friend, the Mover of the Motion, Mr. Mwakiringo, for giving me two minutes to say a few things on this Motion.

I would like to say that the Minister for Water Development has been very eloquent today when responding to this Motion; maybe, it is because his problems in court have lessened. I hope that although he did not cover everything, he will think seriously about rural water projects.

I would like to say that we have Mathira Water Project, which was initiated by the community. This project supplied enough water to people. I would like to point out that there is a body called "National Water Conservation and Pipeline Corporation (NWCPC), which is very good in collecting Kshs200 every month, but very inefficient in supplying water, or even repairing the system when it breaks down. This corporation is very inefficient and it should be done away with. Could we hand over the management of some of these water projects

which were initiated by the communities back to them? For instance, we would like to have Mathira Water Project back. We will identify our engineers, collect fees and do a better job than the NWCPC.

The Minister for Water Development should have told us where they will get money from to have water from River Tana supplied to Coast Province, and then install the second pipeline. We also need a conclusive study to be carried out, to establish whether the Mzima Springs water comes from the ice cap of Mount Kilimanjaro, because he said that this may be the case. It will be serious if the ice cap on Mount Kilimanjaro will melt because of earth warming. The Mzima Springs might dry up. I would like to say that an urgent study should be carried out now in order to establish whether this is the case because the entire Coast Province will be in problems without water from Mzima Springs.

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

**Mr. Mwakiringo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to take this opportunity to thank the hon. Members who have supported the Motion, starting with Mr. Badawy, who seconded it, Mr. Mwenje, Mr. Keah, Prof. Anyang'-Nyong'o, Mr. Kajembe, Mr. Parpai, Mr. Ethuro, Mr. Murathe, Mr. Wamae and, finally, the Minister. The Minister has talked a lot about the Sessional Paper and what he feels the other consultants have done, but he has not actually committed himself on the Government's stand on this issue, and what it intends to do.

Mr. Temporary Deputy Speaker, Sir, a survey carried out on Mt. Kilimanjaro revealed that the ice will melt in 100 years to come and not 20 years. That is just a mere study. It is just a mere consultant's work, so that somebody can justify his pay. It is sad that ice will melt in 100 years' time. What we are saying is that let the Government come up with a clear policy on how this privatisation will be done so that people along the Mzima Pipeline get water.

Mr. Temporary Deputy Speaker, Sir, it is very sad to note that we have 420,000 cubic metres of water flowing out of Mzima Springs per minute, but this brilliant Government of ours could only tap 22,000 cubic metres per minute, leaving a balance of 398,000 cubic metres. The Minister says that water from Mzima Springs might dry up in 20 years' time. If the Government is committed to eradicating poverty in this country, let it give people water. Let it come up with a clear policy on how it will privatise this water pipeline. Let it come up with a clear policy on how our people will participate in the Mzima Pipeline II Project. There is not enough water in Coast and Eastern Provinces. The Government just cannot come here and tell this House that there are plans to drill boreholes here and there. We should be told that they have already drilled so many boreholes. It is not just a question of telling us what they think they will do. When will this Government drill boreholes because it has only one year to go? The Opposition will form the Government next year.

**An hon. Member:** Which Government?

**Mr. Mwakiringo:** Mr. Temporary Deputy Speaker, Sir, the Opposition will form the next Government. Some of you will be rigged out by the same Government you are now serving and you will cross over to the Opposition side. We will welcome you and you will sit here and accuse the same Government you are now supporting.

The water that flows from Mt. Kilimanjaro is little. Much of it flows from Chyulu Hills in Eastern Province. I appreciate what the other colleagues of mine have said that we have it on a Build Operate and Transfer (BOT) basis. If only this Government was committed all those years, I am sure, by now, nobody would be talking about shortage of water and expensive education, and Kenyans would not be heavily taxed as is the case now. It is a pity that the Government, although committed to eradicating poverty, illiteracy and diseases, has done very little to date.

Mr. Temporary Deputy Speaker, Sir, if only we could pass a Motion here which would legitimize the coming back of colonialists to rule this country, I would be the first one to support it. This is because they did a better job than the typical Africans who are ruling this country. We need better management of this country because we have enough resources to take care of our people. We need better infrastructure. We can even provide our people with free education, and medication. But we have people who cannot manage the economy of this country properly.

This is a very important Motion and I am happy that it has been supported by the Government. For how long will we continue to pass Motions in this House which are of national importance, but none of them is ever implemented? I remember in Mombasa, in the presence of the President himself, the Minister was asked to go to Taveta and see how water from Lake Chala could be pumped to assist our people. But up to now, he has done nothing. Personal issues should not come before national issues. I think this was a national issue and it should not have been put as a second class responsibility by him. The Government should be committed to see to it that whatever is passed here, which is of national importance, is taken seriously. Why are we only good at writing good policy papers to be forwarded to donors, and yet when we come to the ground, nothing is ever implemented?

When shall we ever be serious? When shall this Government ever be taken seriously? We have all the brains from the Government Benches, the Opposition and in your Ministries. Why do we not make use of them? Why do we not give them a free hand to do what they are supposed to do professionally rather than being tampered with by the politicians?

Mr. Temporary Deputy Speaker, Sir, this pipeline will definitely create some dams for our wildlife in the Tsavo East and Tsavo West National Parks, and promote tourism in those areas. I would like to be understood on that line so that this project is implemented immediately.

With those few remarks, I beg to move.

*(Question put and agreed to)*

REGISTRATION OF CHURCHES\  
RELIGIOUS ORGANIZATIONS

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

THAT, considering the big number of churches and religious organizations in the country; noting that all religious organizations are currently registered under the Societies Act; and noting further the unnecessary delay in registering these organizations due to the large number of applications by persons wishing to register their societies, this House urges the Government to introduce a Bill for an Act of Parliament to deal specifically with the registration of churches and other religious organizations.

Mr. Temporary Deputy Speaker, Sir, while moving the Motion, I would definitely have to give the background and reasons for which I believe the Motion is valid. I have carried the Bible to enforce the foundation to which I believe this Motion is valid at this point in time. In Mathew Chapter 28:19-20, it says:-

"Go, therefore, into all the world and make disciples of all nations, baptising them in the name of the Father, the Son and the Holy Ghost".

Mr. Temporary Deputy Speaker, Sir, it is also founded on the gospel according to St. Mark Chapter 16:14-20. It still talks of the same foundation. In the gospel according to St. Luke, we are exalted from the word of God, that the gospel should be preached all over the world. A lot has been said about religious organizations in this country. When you look at the various portions of the Bible I have quoted from, read together with the Acts Chapter 2:1-5, it is explained how the commandment was given to the disciples of Jesus Christ, that they go all over and make all men disciples. This came to pass on that day when the Holy Ghost came upon the disciples.

Mr. Temporary Deputy Speaker, Sir, hon. Members may be asking themselves why I filed this Motion. It is because we have got about 300 to 400 religious organisations in this country, working under affiliation cover. This is because all religious organisations in the country are registered under the Societies Act. This is the same Act under which political parties, building societies and many other organisations are registered. Therefore, when a religious group goes for registration and it is lumped together with political parties and other organisations, it does not come out clearly as to what basis should be used to determine which organisation is supposed to be registered under what. We also have to look at the Christian Revival Movement in the world. That is how religion begun and found its way into this country.

Mr. Temporary Deputy Speaker, Sir, during those times, when the missionaries came to this country and wanted to register churches or Christian foundations, they could just walk to the office of the Attorney-General and get registration straightaway. But that is not the case today! Because of the mushrooming of religious organisations, the Government moved - maybe with a good reason - to stop anybody coming over and registering a church straightaway. That hampered most of the genuine religious leaders who would have wanted to register churches, giving rise to the number of churches and religious organisations that operate under the affiliation cover. Here, I am talking about the Christian religious movement alone. I have not even considered the Muslims or the Hindus. If all these had been lumped together, we would have so many organisations which cannot be registered today. I urge this good Government to come up with a Bill to specifically deal with churches and religious organisations, so that the Christian body in this country is not lumped together with other organisations which do not share a common interest.

Mr. Temporary Deputy Speaker, Sir, I want to expound more on the affiliation cover. Because the registration of churches has been stopped, except through a few connected people, you will find that genuine preachers who would want to go out and register churches or their organisations are frustrated because most of the time, they are forced to look for older churches and get affiliation covers from them. Out of that, the older churches take advantage of people intending to register their churches or religious organisations. They are forced

to work according to what those other churches want because they cannot register their own churches. This brings about frustration and intimidation. Once you have been given an affiliation cover, you will not even differ with the person who has given you the cover, even if you find that certain provisions of the affiliation cover have been flouted. You have to stick to the affiliation cover or your church is thrown out. That also breeds corruption among the few unfaithful preachers. There are some people who come to the Christian movement and pose as preachers.

There are some well-connected people who register churches for commercial purposes. They do so to get affiliation cover for Kshs100,000 or Kshs10,000. So, there are people who register churches for commercial purposes. To curtail that, the Government must come up with a specific Act of Parliament, detailing how one can register a church, qualifications, rules and regulations. That would make the whole process clear-cut and curtail the corrupt fellows in the Christian religious movement.

Mr. Temporary Deputy Speaker, Sir, there is also the issue of cult movements. There is a real threat posed by cult movements in Kenya. If there is no Act specifically detailing how a church or a religious organisation can be registered, and most of the people are working through the affiliation cover, it means that I could walk over to the Chair, and because he has a church, he would give me a cover and the Government is not informed about that. The affiliation cover is given to the would-be preacher or church leader without any Government scrutiny. That is because the Government is not involved in the process of giving the affiliation cover. To avoid that, the Government should come up with an Act to enable it to trace and locate every church, religious organisation and their leaders. That way, the Government would be able to keep a tally or an inventory of registered churches and religious organisations. As it is now, it is not possible for the Government to keep track of registered and non-registered churches. As I said before, more people are working on the affiliation cover.

We have talked a lot about the liberalisation of the economy and other things, but we have not sat down and asked ourselves how big is the room that we have given to the preaching of the word of God in this country. We have done a lot of good work, but so little has been done on the religious side. So little has been done to facilitate the growth of the Christian religious movement in this country. We talk about South Korea, the United States of America (USA) and other countries, which have seen industrial revolution. We have not asked ourselves: What are the things that those countries did to have catalysts for industrial development?

A case in hand is South Korea, where the Christian religious movements have been given a big place in the running of Government affairs, through liberalisation of registration of the movements. It is high time that we introduced a Bill in this House and once it is enacted, it will specify who can register a church and prevent every Tom, Dick and Harry. Because they know so-and-so, they get their churches registered in a day, while genuine men of God have to work on affiliation covers for years. I know of many churches today which have not been registered for many years. They cannot even own property, although they have big churches, because the registration process is not streamlined. It is not the way you would walk over to the Office of the Attorney-General to register a company under the Companies Act, Cap.486 of the Laws of Kenya, and you submit the name to the Registrar of Companies. The name is then searched and you are given an okay to register a company limited by shares or by guarantee. You cannot do the same for churches or religious organisations. We want this to be streamlined. I do not want to speak for the Christian movement and most religious organisations in this country, but they want this streamlined, so that you can walk over and register a church the way you would register a company. From there, we can sort them out. Once again, if I can quote from the Bible, when Jesus was told about good wheat which was mixed with chaff, he told them not to pluck it out, but let them grow together. Thereafter, the harvesters would know how to separate good wheat from chaff. It is not our business to be talking on who is called by God and who is not. Let us liberalise the registration of the churches, and once we have done that, then we will have the opportunity to put everything in place and in law.

Mr. Temporary Deputy Speaker, Sir, in my view, this is a straightforward Motion. We just want a separate Act of Parliament to deal with the registration of churches. This good Government, which I am serving, I am sure, would not stand up to oppose the Motion. It has always stood on its ground and made its position known; that it is a religious Government. The only thing to do, without sounding like I want to blackmail the Government, is to come out and support the Motion, bring the Bill and we will pass it. Then, Kenya will be one of the countries--- That way, we will continue to obey the word of God: "Go, therefore, into all the world and make disciples of our nation, baptising them in the name of the Father, the Son and the Holy Ghost." The Bible says: "And teaching them to observe all things, whatsoever, I have commanded you." We cannot teach them unless they have churches. We cannot teach them unless the churches they want to go to are registered by the Attorney-General of the Republic of Kenya.

With those few remarks, I beg to move. I call upon my colleague, Mr. Ndicho, to second the Motion.

**The Temporary Deputy Speaker** (Mr. Muturi): May I say that it was a nice piece of preaching!

**Mr. Ndicho:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this Motion. It is a good Motion and our concern is that our Government has got a tendency of refusing to obey the laws of which it is the custodian. Mr. Kiminza's Motion is seeking a special Act of Parliament, specifically for registration of churches. I think what he is asking for here has already been taken care of by Section 108 of the Societies Act, as well as our Constitution. All that is needed is for our Government to have the goodwill to procedurally register the organisations that are not inconsistent or a threat to the good governance of the country.

I would like to refer the Attorney-General, who is the custodian of these laws to Cap.108(11) of the Societies Act which gives the reasons why there should be refusal for registration of any society. If you go through the whole section, there is no provision that allows the Attorney-General or the Government to give any reason as to why they should refuse to register these societies. We had a very sad case here this morning, where the Attorney-General gave the reasons why a certain political party has not been registered just because the Special Branch has not given its consent. Going through this Motion, as one hon. Member said---

**The Attorney-General (Mr. Wako):** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**Mr. Ndicho:** Let me just finish, Mr. Attorney-General.

**The Attorney-General (Mr. Wako):** Is the hon. Member in order to mislead the House by referring to a Question which I answered this morning? He is saying that the Director of Intelligence refused to register a certain society when, in fact, I did say that the report of the Director of Intelligence indicated that it would be contrary to the good order and security of this country if that society was registered. I made it very clear that it was up to the Registrar of Societies to decide, depending on the information available to him, whether or not to register that society.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, we rely on the laws of this land and we are opposed to the Attorney-General trying to sneak other people to come in between the process of legislation of laws in this country.

I was saying that Mr. Kiminza's Motion is also backed by our Constitution. I wish to read to the Attorney-General what the Constitution says about registration of societies in this country. Section 80 States:

"Except with his own consent,  
no person shall be hindered in the enjoyment of the freedom of assembly and association."  
That is to say one has a right to associate freely with other persons and, in particular, to form or belong to trade unions or any other association for the protection of his interests. The Attorney-General tells me that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section of the law.

Why should so many organisations be denied registration and yet our Constitution gives that as a fundamental right, as well as the various provisions under the Societies Act? Why should our Government that became independent in 1963 behave the same way as the colonialists were behaving? The *Mzungu* who was ruling in this country would not register any organisation that was headed by an African, who was deemed to be against the establishment of the colonial authority. This is exactly what this Government took over. Today, if you are not inclined towards KANU and you start an organisation, you cannot be registered simply because of that fact.

Mr. Temporary Deputy Speaker, Sir, on the issue of churches and religious organisations, it is true that Kenya is a religious country and the Constitution also gives that freedom for anybody to belong to a church or a religious organisation that he so desires to join. The Government puts a lot of hurdles in the way, including corruption, such that unless you bribe some people in that office, you cannot be registered. Since churches have got a noble cause and they will not indulge themselves in corrupt practices, they refuse to bribe these officials. That is why they are denied registration. We have devil worship cults in this country who are allowed to worship the devil and bring all the calamities in this world and yet when others seek registration they are now allowed. You can see that it is the Government which really leads us into a lot of these problems. We need---

**The Temporary Deputy Speaker (Mr. Muturi):** Mr. Ndicho, you will have an extra five minutes next week when this Motion resumes.

#### ADJOURNMENT

**The Temporary Deputy Speaker (Mr. Muturi):** Hon. Members, it is time to interrupt the morning sitting of the House. The House, therefore, stands adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.