

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 12th June, 2002

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPER LAID

Report of the Select Committee on the Constitution of Kenya Review Process on the Extension of the time of the Constitution of Kenya Review Commission

[By the Minister for Energy (Mr. Raila)]

NOTICES OF MOTIONS

ADOPTION OF REPORT ON EXTENSION OF CKRC TERM

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Select Committee on the Constitution of Kenya Review Process on the extension of time of the Constitution of Kenya Review Commission laid on the Table of the House on Wednesday, 12th June, 2002.

Mr. Mbela: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motions:-

TRIBUNAL TO REVIEW COUNCILLORS' REMUNERATION

THAT, while appreciating the critical political role played by councillors in various local authorities, and considering that most local authorities depend on wananchi to finance the councillors' allowances and upkeep through inflated property rates; this House urges the Government to amend the Local Government Act to provide for a tribunal to moderate and review salaries and allowances every five years, and provide for payments to be made from the Local Authorities Transfer Fund.

UPGRADING OF MALINDI AIRPORT

THAT, in view of the fact that air transport has become the preferred mode of long-haul transport for tourists as well as high yielding exports and horticulture; and, given the high potential for inauguration of tourists charter flights from Europe; this House urges the Government to urgently develop Malindi Airport to international standards to handle big jet aircraft, so as to revamp tourism in Malindi, Watamu, Mambui and Lamu in order to consolidate economic gains and generate employment.

REVIVAL OF RAMISI SUGAR FACTORY

THAT, recognising that sugar clones for sugar farming in upcountry nuclear sugar estates come from the coastal agricultural stations; having regard to the fact the Ramisi area of South Coast is in the same agricultural ecological zone as Mtwapa and Mauritius; cognisant of the fact that very many outgrowers have been sensitised to grow sugar-cane to support Ramisi Factory; this House urges the Government to source for either local or foreign investors to revive Ramisi Sugar Factory.

INJECTION OF FUNDS TO BAIL OUT

CASHEWNUTS INDUSTRY

THAT, recalling that at the peak of successful farming and marketing of cashewnuts, the industry had tremendous economic impact in Kilifi, Kwale and Malindi as well as Tana River and Lamu Districts; having regard to the fact that under the guise of liberalisation and privatisation of local industries, the Kenya Cashewnuts Limited found itself being irregularly and unlawfully transferred to private hands which became responsible for destroying the giant cashewnuts industry; aware that the country's new priority is to achieve rural economic recovery through poverty alleviation; this House urges the Government to inject enough funds to bail out the cashewnuts industry from unfair business practices.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motions:-

ESTABLISHMENT OF KENYA NATIONAL
YOUTH COUNCIL

THAT, taking into cognisance the crucial role of the youth in the present and the future of the Kenyan national life; conscious of the immense untapped development potential of the young generation in this country; this House grants leave to introduce a Bill for an Act of Parliament to establish the Kenya National Youth Council to harness the youth potential in the interest of the nation.

SETTLEMENT OF LANDLESS KENYANS

THAT, in view of the Government's stated commitment to eradicate poverty as demonstrated by the Poverty Reduction Strategy Paper, among other initiatives, and particularly in order to alleviate the plight of landless Kenyans; while causing optimal use of all the arable land in Kenya; this House urges the Government to take immediate steps to settle all landless Kenyans, and accord them with title deeds thereto, on all land that is idle or under utilised.

ORAL ANSWERS TO QUESTIONS

Mr. Muchiri: Mr. Deputy Speaker, Sir, before I ask the Question, I would like to bring it to your notice that I have not received the written reply to it.

Question No.087

MEASURES TO CURB INSECURITY

Mr. Muchiri asked the Minister of State, Office of the President, what urgent measures he is taking to curb the state of lawlessness and insecurity in the country.

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, I wish to apologise to the hon. Member for his not having received his copy of the written reply to the Question.

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

Mr. Deputy Speaker: Mr. Assistant Minister, before you reply, you have Questions which stood against your Ministry this morning, and which went unanswered. Would you like to offer some explanation?

The Assistant Minister, Office of the President (Mr. Samoei): Mr. Deputy Speaker, Sir, let me again apologise profusely for not having been here this morning to answer the Questions. However, the answers to the Questions are ready. I can answer the Questions any time the Chair directs me to do so.

Mr. Deputy Speaker: We deferred the Questions to next week. So, make sure that you come here to answer them when they are raised next week. If you will not be here, ensure that another Minister comes to answer them.

You may now proceed with your reply.

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

(a) The Government has taken all necessary measures to curb insecurity in the country. Among those measures that I have taken include intensified police patrols. I have also put a lot of emphasis on the collection of crime intelligence and surveillance. We have carried out, on a very regular basis, frequent raids and ambushes which have led to groups of persons who were in this country illegally and criminals being arrested.

It has been the policy of the Government to establish - which we have done - more police stations and police

posts and some patrol bases in crime-prone areas. We have also encouraged public participation in combating of crime, and we have seen the fruits so far of that, through community policing. These efforts have yielded results, and we have seen that in areas where we have established community policing incidences of crime have reduced drastically. We shall continue to enhance these measures in order to make sure that our towns, cities and country are safe.

Mr. Muchiri: Mr. Deputy Speaker, Sir, this is a very important Question. Every day, we witness in this country people being killed by criminals and robberies taking place and those people who are behind them are armed with very sophisticated weapons. It is well known that these sophisticated weapons are being brought from Somalia, Ethiopia, Sudan, Zaire and Uganda. Why has the Government not carried out an operation against all the foreigners who are here illegally and deport them to their respective countries?

Mr. Samoei: Mr. Deputy Speaker, Sir, indeed, I do agree with Mr. Muchiri that, to a great extent, the presence of persons who do not belong to this country have contributed immensely to the insecurity situation in our country. We have taken up the issue of refugees status residing in our country with the UNHCR. We are discussing with them with a view of revising the rules and regulations of persons who have been given the refugee status in this country because majority of them have engaged in acts of lawlessness and criminal activities. However, we are bound to some extent by international obligations; that, we have to keep refugees within the boundaries of our country.

As I am talking, we have about 800 aliens from our neighbouring countries whom we are shortly going to arraign in courts. We believe that the courts will do us justice, so that we can have these people repatriated to their countries.

Mr. Gitonga: Mr. Deputy Speaker, Sir, recently, some police officers were said to have been involved in incidences where citizens have been robbed of their money. What is the Government doing about these police officers who are involved in this sort of crime?

Mr. Samoei: Mr. Deputy Speaker, Sir, police officers who have been identified positively as engaging in acts of crime have not only been dismissed, but they have been charged in a court of law and some have been put behind bars. We shall continue to rid the Kenya Police Force of such men and women whose duty is otherwise; of not protecting the lives of Kenyans.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, the security of Kenyans is very important. Mr. Samoei, what is the ratio of Kenyans against the police? How many Kenyans per each police officer, and how many police officers do we have in this country?

Mr. Samoei: Mr. Deputy Speaker, Sir, the ratio of Kenyans to every police officer who has been employed by the Government is 950 Kenyans to one police officer.

Hon. Members: No! No!

Mr. Samoei: Mr. Deputy Speaker, Sir, I do agree that it is a serious imbalance compared to what international regulations allow; 450 persons per every police officer. This House will admit that we have serious Budget constraints. Despite that we have, in the last three years, continuously employed close to 2,000 personnel. We hope to push this figure to at least 700 or 650 Kenyans to a police officer in the next five years.

Mr. Omingo: Mr. Deputy Speaker, Sir, when the Assistant Minister was answering this Question, he said that the Government is committed to eradicating crime. The word "commitment" is a relative term. I want to prove a small point, that--

Mr. Deputy Speaker: Order! Ask your question!

Mr. Omingo: Mr. Deputy Speaker, Sir, the Government must also be committed because in my constituency, an area covering---

Mr. Deputy Speaker: Order, Mr. Omingo! Ask your question!

Mr. Omingo: Mr. Deputy Speaker, Sir, could he tell this House what commitment he has made in curbing crime because it is on the increase? This is because in the last two weeks---

Mr. Deputy Speaker: Order, Mr. Omingo! I will go to the next hon. Member!

Mr. Omingo: Mr. Deputy Speaker, Sir, is he aware that we are losing, on average, about 100 Kenyans to criminals per day?

Mr. Samoei: Mr. Deputy Speaker, Sir, I have the figures for last year and the year before. In fact, incidences of crime have come down though not very significantly in the last three years. However, I still do admit that the levels of crime are still fairly high. But we are doing everything possible to make sure that Kenyans have a safe place to stay. I have said that in the last three years, we have suspended, as a Government, ---

(Mr. Mokku consulted loudly)

Mr. Deputy Speaker: Order, Mr. Mokku! You are a destabilising influence!

Mr. Samoei: Mr. Deputy Speaker, Sir, we have suspended employment in every other sector in the last three years, but we have continued to employ police officers because we consider security a core function of this

Government.

Mr. Kibicho: Mr. Deputy Speaker, Sir, why did the Government withdraw patrols by police vehicles? In early 1970s and 1980s, one would have rung a "999" vehicle for assistance, and in a matter of minutes, you would be assisted. Mr. Samoei, why do you think police officers on foot would be able to fight criminals in vehicles?

Mr. Samoei: Mr. Deputy Speaker, Sir, we have not stopped the patrols by police vehicles in any part of the country. We are working within the constraints of a very tight Budget, but again I should inform this House that the only Vote in the Budget of the Office of the President that has gone up in the last two years, in terms of funding, is that of the Kenya Police Force. In fact, we have more patrols now than we had last year.

Mr. Muchiri: Mr. Deputy Speaker, Sir, in view of the fact that the reduction of crime by the Kenya Police Force is very low, could the Assistant Minister consider now rewarding police informers by offering rewards to any person who offers the police information and in particular in relation to the 25 people who were killed in Kariobangi?

Mr. Samoei: Mr. Deputy Speaker, Sir, we shall do all that is necessary for us to be able to get our security position in order.

Question No.104

PROVISION OF SERVICES TO
MBOONI SUB-DISTRICT

Bw. Kalulu alimuuliza Waziri wa Mipango:-

(a) kama anafahamu kuwa Wilaya Ndogo ya Mbooni haina hazina ya wilaya, koti na hata benki; na,

(b) ni mipango gani anatekeleza hili kuleta huduma hizo wilayani hiyo.

The Assistant Minister for Finance and Planning (Mr. Marrirmoi): Mr. Speaker, Sir, I beg to reply.

(a) It is true that the Government has not established a district treasury in Mbooni Division of Makueni District because the Division is adequately served by the district treasuries in Makueni and Machakos. There are also law courts in Uaani (Tawa) in Makueni and Machakos town, Machakos District, which serve the surrounding areas.

There are commercial banks in Makueni and Machakos districts headquarters. In view of the above, (b) does not arise.

Mr. Kalulu: Bw. Naibu Spika, Waziri Msaidizi ameambiwa yale maneno anayoyasoma hapa. Mahakama anayozungumzia habari zake kule Uaani ilijengwa 1952. Ilikuwa mahakama ya kuwahukumu wapiganaji wa Mau Mau. Hakuna mahakama pale! Ningetaka Waziri Msaidizi afafanue kama watapanua koti ya Uaani? Mbooni ni kilomita 120 kutoka Makueni na wazee wanasafiri siku tatu na kulala kule Makueni wakienda kutafuta huduma. Hiyo ndio sababu tunataka hazina ya wilaya iwe karibu na sisi.

Mr. Marrirmoi: Bw. Naibu Spika, nimesikiza kwa makini vile Bw. Kalulu amesema. Ni lazima huduma kwa wananchi ziangaliwe. Lakini Mbooni si mbali kutoka Makueni vile amesema. Kwa hivyo, wananchi wa Mbooni wanawesa kuhudumiwa katika Machakos na Makueni.

Mr. Deputy Speaker: Bw. Marrirmoi, jibu swali kwa uhakika. Sisi tunataka ukweli si maoni yako.

Mr. Ndicho: Jambo la nidhamu Bw. Naibu Spika. Je, Waziri Msaidizi na Mbunge wa Mbooni wanaelewana? Bw. Kalulu ameuliza swali kwa Kiswahili na Bw. Marrirmoi amemjibu kwa Kiingereza. Kwa hivyo hakikisha ya kwamba wote wawili wanaelewana! Bw. Kalulu amesema ya kwamba kutoka Mbooni mpaka mahali mahakama na benki zinapatikana ni kilomita 120 na Waziri Msaidizi amesema huo si ukweli. Je, Waziri Msaidizi ana haki ya kukataa yale Mbunge wa sehemu hiyo anasema?

Mr. Marrirmoi: Bw. Naibu Spika, kama wangekutana kwa District Development Committee (DDC) na kupitisha haya mambo, Serikali ingeangalia jinsi ya kuyatekeleza.

Mr. Kamolleh: Bw. Naibu Spika, badala ya kuzungumza mambo mengi na kusema Mbooni si mbali kutoka Makueni au Machakos na kwamba wananchi wanaweza kuhudumiwa mahali waliko, basi kuna haja gani Serikali iweke District Officer mahali fulani? Mbona wananchi wanasafiri kutoka kule Mbooni kwenda kutafuta huduma kwingineko? Ama Serikali haitaki kuwahudumia watu wa huko? Ni lini Serikali itapeleka huduma hiyo?

Mr. Deputy Speaker: Order, Mr. Kamolleh! You do not discuss with the Minister the way your question should be answered. If you know the answer, do not ask it.

Mr. Marrirmoi: Bw. Naibu Spika, kwa vile Bw. Kalulu amesema huduma ziko mbali kutoka kwa wananchi, inafaa wakutane kwa DDC na kutuma mapendekezo yao kwa Wizara na tutatekeleza vile wanataka.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister say that "watu wa Mbooni wangetuma mapendekezo yao kwa Wizara." They have already sent their Member of Parliament. Is he in order?

Mr. Deputy Speaker: That is not a point of order! You are asking a Question!

Mr. Mwakiringo: Bw. Naibu Spika, kila mara, Serikali inaongeza tarafa wakisema wanataka kuleta huduma karibu na wananchi. Mbunge wa Mbooni ameuliza kama haya yanawezekana. Ni mikakati gani ambayo imewekwa kuona ya kwamba huduma hizi zimeletwa karibu na wananchi kwa sababu kama wazee wanaweza kusafiri kilomita

100 hili wapatiwe pesa zao za malipo ya uzeeni, ni mikakati gani imewekwa ili wananchi wapate huduma kwa urahisi?

Mr. Marrirmoi: Ni lazima mipango iweko kwa sababu kuna mambo mengi ya kuangaliwa kabla ya kuweka hazina ya wilaya mahali fulani. Kwa hivyo, ni nia ya Serikali kuleta huduma karibu na wananchi. Mhe. Kalulu amesema angetaka huduma ya benki kule Mbooni na nimesema ya kwamba ni lazima viongozi watupatie mipango yao.

Mr. Kalulu: Bw. Naibu Spika, nafikiri Waziri analidanganya Bunge. Nilileta Swali hili hapa 2000 na yeye akakubali ya kwamba, wataangalia jambo hili wakati wa makadirio ya pesa mwaka uliopita, na hawakufanya hivyo. Inafaa Waziri Msaidizi akubali ya kwamba mwaka huu, watatufanguliwa hazina ya wilaya.

Mr. Marrirmoi: Bw., Naibu Spika, mhe. Kalulu ni rafiki yangu sana. Ingefaa atutembelee ofisini ili tupange na yeye jinsi ya kufaulu kupitia mpango ya Wizara.

Question No.231

OPERATION OF BUSES WITHOUT
EMERGENCY DOORS

Mr. Mwakiringo asked the Minister for Transport and Communications:-

- (a) whether he is aware that long distance passenger buses like Coast Bus, Busscar, Busclass, Akamba, Interstate 2000, etc, have no emergency exit doors;
- (b) what action he is taking to ensure that the said buses have emergency exit doors; and,
- (c) why these buses were allowed on the road without the said doors.

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

(a) Yes, I am aware of the fact that some buses being operated on our roads have no adequate emergency exit doors as stipulated in the Traffic Act, Cap.403.

(b) The measures that have been taken to ensure that the said buses have emergency exit doors include:-

- (i) enforcement of the law as required by the Traffic Act, Cap.403 of the laws of Kenya;
- (ii) continuous sensitization of the stakeholders through workshops on the importance of their adherence to the laid down legal requirements;
- (iii) the proposed Kenya Road Safety Authority in the Traffic (Amendment) Bill, 2002, is expected to address these issues as part of its responsibility towards road safety.

(c) These omissions in respect of some vehicles have been noted and the relevant legal instruments are under preparation to ensure that owners of such vehicles provide them with emergency exit doors in the prescribed position, before they can be allowed to operate on our roads.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, you are aware that road carnage has caused a lot deaths of our Kenyan people. If the Traffic Act, Cap.403, is there, why were these buses licensed to operate on long distances without emergency exit doors?

Mr. Lengees: Mr. Deputy Speaker, Sir, I think there was laxity before in the Ministry, but the Traffic Act, Cap.403 is now being used to seriously address this issue. The Ministry is also enforcing and implementing some provisions in the law which provide that every bus should have an emergency exit door.

Mr. Deputy Speaker: Mr. Assistant Minister, answer the question! Why were these buses allowed to operate on our roads if they did not have emergency exit doors?

Mr. Lengees: Mr. Deputy Speaker, Sir, I think this was an oversight. The Ministry has instructed the Kenya traffic police to implement the law and ensure that every bus has an emergency exit door.

Mr. Mbela: Mr. Deputy Speaker, Sir, these buses are inspected when they are new. As soon as they are built, they are inspected before they are licensed. Why were they allowed to operate on our roads without having complied with the law?

Mr. Lengees: Mr. Deputy Speaker, Sir, the vehicle body builders meeting took place around November, 1996.

Hon. Members: Answer the question!

Mr. Lengees: Mr. Deputy Speaker, Sir, as I said, this was, maybe, an oversight in the Ministry. From now on, the builders and the operators have been instructed that when they build new buses, they must put emergency exit doors.

Mr. Deputy Speaker: Order! Mr. Assistant Minister, there are five bus companies that seem to be flouting the law. Hon. Members are asking you why and how that happened. Answer that question!

Mr. Lengees: Mr. Deputy Speaker, Sir, there are similar cases which were detected from the same companies. The Ministry, in conjunction with the Kenya police force, will take them to court and they will be prosecuted.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! I am afraid that you have not given us a satisfactory

answer. I will defer this Question to Wednesday next week, so that you may come back here properly prepared.

Mr. Lengees: Mr. Deputy Speaker, Sir, I think the answer which I gave is adequate.

Mr. Deputy Speaker: Order, Mr. Assistant Minister! I hope that, that was not an attempt to challenge the Chair's ruling, because if it was, there are consequences. You will come back on Wednesday next week with an adequate answer; more adequate than the answer that you have given us today.

(Mr. Lengees stood up in his place)

Mr. Lengees, I have made a ruling and I do not want to have your response.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. For purposes of getting an answer to that Question next week, you have made a ruling. But this House, and the country at large, is aware this afternoon that there are bus companies which are operating right now, will be operating this evening, tomorrow morning and over the weekend contrary to the law. What will happen in the meantime?

Will these bus companies be allowed to continue flouting the law until we get the answer to the Question, or will they be stopped from operating from this moment?

Mr. Deputy Speaker: Mr. Assistant Minister, you have heard the sentiments of the House. Unfortunately, the Chair cannot direct you to go and take those buses off the road. But if you have ears, you have heard the sentiments of the hon. Members. This is not a laughing matter. Lives of Kenyans are involved. So, please take the necessary action.

(Question deferred)

Question No.195

ELECTRIFICATION OF SECONDARY SCHOOLS

Mr. Muithia asked the Minister for Energy:-

- (a) whether he is aware that Thika District Development Committee (DDC) recommended the electrification of Mururia and Icaciri Secondary schools in 1999;
- (b) how much money has been set aside for the two projects; and,
- (c) when the work will commence.

The Minister for Energy (Mr. Okemo): Mr. Deputy Speaker, Sir, I held consultations with the hon. Member and we agreed that we could defer the Question to Tuesday, next week, if you are in agreement.

Mr. Deputy Speaker: What is the reason for deferring the Question?

The Minister for Energy (Mr. Okemo): Mr. Deputy Speaker, Sir, the Question was originally directed to the Ministry of Agriculture and Rural Development and we only got it this morning. So, the answer I have is not really adequate.

Mr. Deputy Speaker: So, the answer you have is not your answer?

The Minister for Energy (Mr. Okemo): Mr. Deputy Speaker, Sir, I have the answer, but I am not satisfied with it.

Mr. Deputy Speaker: Order, Mr. Minister! The answer you have is not your answer. If it is your answer, I cannot accept the fact that you are saying that you are not satisfied with your own answer.

The Minister for Energy (Mr. Okemo): Mr. Deputy Speaker, Sir, I am saying that I would like to answer the Question next Tuesday.

Hon. Members: Why?

The Minister for Energy (Mr. Okemo): Mr. Deputy Speaker, Sir, this is because I only received the Question this morning.

Mr. Muithia: Mr. Deputy Speaker, Sir, this Question is important for the schools in my constituency, and I concede to the fact that it be answered fully on Tuesday next week.

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

(Question deferred)

Question No.081

IMPLEMENTATION OF ROADS 2000 PROGRAMME PROJECTS

Mr. Thirikwa, on behalf of **Mr. Githiomi**, asked the Minister for Roads and Public Works:-

- (a) whether Kipipiri Constituency has been considered for road construction works through the

Roads 2000 Programme;

(b) how much money has been set aside for road construction in the constituency; and,

(c) if the Minister could inform the House when the projects, if any, will start, and on which roads.

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

(a) Kipipiri Constituency has been considered for road construction works through the Roads 2000 Programme.

(b) No funds have been set aside this financial year for Roads 2000 Programme in the constituency.

(c) Roads 2000 Programme will commence during the next financial year, namely, 2002/2003 financial year, after the completion of a feasibility study, and when an appropriate agreement between the AFD and the Kenya Government will be negotiated and signed.

(c) The roads to be improved and/or rehabilitated will be known after a feasibility study is completed.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, sometimes we are unable to understand what is happening because since the last two years, we have been promised the *El Nino* money and the Road 2000 Programme Funds. It seems that this money is not forthcoming. Could the Assistant Minister specifically say what he intends to do with the roads in Kipipiri Constituency and more particularly in the whole of Nyandarua District, other than promising funds that are not available?

Eng. Rotich: Mr. Deputy Speaker, Sir, I do not know what else to say because the programme caters for the whole of Nyandarua, Murang'a and Maragwa Districts. So, it covers the whole district of Nyandarua.

Eng. Muriuki: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what the people who have been claiming to be consultants for the Roads 2000 Project have been doing in Nyandarua District in the last two weeks, without reference to the leaders in that district nor the DDC and the District Roads Committee? Could the Assistant Minister tell us who these people are and whom they are dealing with in the district?

Eng. Rotich: Mr. Deputy Speaker, Sir, the consultant was engaged by AFD, in order to give a report to justify the investment of this nature to the French Government.

Eng. Muriuki: Mr. Deputy Speaker, Sir, if there are consultants in Nyandarua District claiming to be working on behalf of AFD and they are not consulting the leaders like the Members of Parliament, which priority of roads are they undertaking in the district?

Eng. Rotich: Mr. Deputy Speaker, Sir, I am not aware of that situation; if it is there we shall correct it. I am not aware that they are not consulting the leaders of the area whom they are supposed to consult.

Mr. Sambu: Mr. Deputy Speaker, Sir, the Roads 2000 Programme, we were told initially, was a nationwide programme and part of North Rift was to be funded by the Germans.

Could the Assistant Minister tell this House which donor agency is funding which area and what is the state of the projects funded? This is because in some areas of Eastern Province, the projects have already been implemented. How about the other parts of the country? When is the Road 2000 Programme coming into effect and who are the donors?

Eng. Rotich: Mr. Deputy Speaker, Sir, I do not have the whole list here but Western and Rift Valley Provinces were supposed to be supported by KFW but, we have not yet concluded the negotiations for the two provinces. But for Eastern Province, it was European Union, Coast Province, DANIDA, and Central Province AFD.

Mr. Kaindi: Mr. Deputy Speaker, Sir, I want to concur with hon. Sambu on the following:-

The Road 2000 Programme was started with a lot of fanfare, particularly in areas like Eastern Province. Could the Assistant Minister explain to the House whether he is satisfied with the level of performance by the so-called donors and consultants in that programme and whether it is really taking effect?

Eng. Rotich: Mr. Deputy Speaker, Sir, where the jobs have been carried out, we have been satisfied, but not a lot has been done. So, we cannot tell the state of what has not been done. But we are satisfied with what has been done.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, in his answer to the Question the Assistant Minister said that the roads to be improved or rehabilitated would be known after the feasibility study has been done. Could he now tell us who is on the ground in Nyandarua District doing the feasibility study?

Eng. Rotich: Mr. Deputy Speaker, Sir, it is the consultant who was appointed by AFD, but I do not have his name here now. But they are supposed to conclude the feasibility study by the end of August, 2002, then we will start the programme.

Question No.187

TARMACKING OF NYACHENGE-TABAKA ROAD

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

(a) when Nyachenge-Tabaka Road will be tarmacked as per the Gucha District Development Committee's recommendation of 1998; and,

(b) how much money from the Fuel Levy Fund has been spent on the road since 1998.

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

(a) Due to economic hardships, the Government has no immediate plans to tarmack Nyachenge-Tabaka Road. However, the Ministry will endeavour to keep the said road in a motorable condition through routine and periodic maintenance.

(b) The Government has spent Kshs490,000 from the Fuel Levy Fund on this road since 1998.

Mr. Omingo: Mr. Deputy Speaker, Sir, this is a very important road that serves an important mission hospital and soapstone mining area. The money which the Assistant Minister is talking about in his answer to part "b" is only a portion of the money which was received from the Constituency Roads Fund only last year. As for routine maintenance of the road, nothing has been done. Could the Assistant Minister, given the importance of this road, consider gravelling this road because it is currently impassable?

Mr. Mokku: Mr. Deputy Speaker, Sir, I said that the Government has spent Kshs490,000 on this road so far. But from July 2000, with the inauguration of the Kenya Roads Board, this particular road falls under the District Roads Committee from which the hon. Member can get an allocation for it.

Mr. Wanjala: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House how much money the Ministry has remitted to Gucha District under the 24 per cent allocation which is supposed to be given to each district by the Kenya Roads Board?

Mr. Mokku: Mr. Deputy Speaker, Sir, I do not have that answer because it is not part of the Question that has been put to me. Once he puts that Question to me I will answer it.

Mr. Deputy Speaker: Even if he puts another Question it will not make any sense because if all districts were given 24 per cent there will be no money for all districts! He has asked no question because if each district received 24 per cent of the Roads Levy, there will be no money. So, you have nothing to answer.

Mr. Omingo: Mr. Deputy Speaker, Sir, the Assistant Minister says that he will endeavour to make this road motorable. The word "motorable" in my thinking is having vehicles to ply along this road without getting stuck! The Assistant Minister has refused to answer this Question! What is he doing to have this road "motorable" because, at moment, the road is not motorable?

Mr. Mokku: Mr. Deputy Speaker, Sir, I said that, Nyachenge-Tabaka Road is a classified minor road, E105, measuring six kilometres. Before July 2000, this road was under the Ministry of Roads and Public Works. But from July 2000, this particular six kilometre road is under the DRC, and the Ministry submits the allocation of such road to the DRC to be maintained to the standards expected by public.

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

Mr. Deputy Speaker: Yes, the last one, and it had better be a point of order!

Mr. Omingo: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to refuse to answer my question on what he is doing to make the road motorable? What "endeavour" is the Assistant Minister doing to make the road motorable?

Mr. Mokku: Mr. Deputy Speaker, Sir, all I said is that the road is now under the jurisdiction of DRC. To my understanding, the road is motorable!

Eng. Muriuki: Mr. Deputy Speaker, Sir, although this road is under the jurisdiction of the District Roads Committee, under the Kenya Roads Board; the Kenya Roads Board is still under the docket of the Ministry of Roads and Public Works. So, the question asks how much of the 24 per cent is allocated to Gucha District so that the District Roads Committee can sit down and, therefore, allocate some of the funds to this road?

Mr. Mokku: Mr. Deputy Speaker, Sir, that question is not part of this Question. So, if the hon. Member wants me to answer it, he can ask that Question and I will tell him how much of the 24 per cent has been sent to Gucha District.

Mr. Deputy Speaker: Order! Order! You know the answer. Every constituency has got Kshs5 million. Indeed, you should be asking how much of the Kshs5 million has gone to his constituency. Mr. Omingo, do you want to know how much money out of the Kshs5 million has been given to your constituency?

Mr. Omingo: Mr. Deputy Speaker, Sir, there is that provision, but I am telling this Assistant Minister that the Ministry supervises all the work that is done on that road and the money may have been used, but the road is not passable. I am only seeking the indulgence of the Chair to have this road repaired to motorable standard because of its importance. This road serves the only place where you will find soapstones in the whole world. Because this road is impassable, patients in Tabaka die before they get to hospital.

Mr. Mokku: Mr. Deputy Speaker, Sir, as a Ministry, we have sent Kshs5 million to every constituency, including Mr. Omingo's constituency. Let the hon. Member use the Kshs5 million to repair the road to the standard he wants.

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

Mr. Deputy Speaker: Order! Let us move on to the next Question by Mr. Weyrah! Mr. Weyrah's Question for the second time!

Question No.240

MEASURES TO CONTAIN BILHARZIA INFECTION

Mr. Deputy Speaker: Mr. Weyrah is not here! His Question is dropped!

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

REFUND OF MONEY TO SIAYA DISTRICT ACCOUNT

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

(a) Is the Minister aware that his office recalled Kshs10 million from Siaya District Account, money that belonged to various widows and orphans, which was being held by the District Accountant on behalf of the Public Trustee for onward transmission to the families?

(b) Is he further aware that the families are going through much anguish and suffering despite numerous visits to the District Accountant?

(c) When will the Minister refund the money to the Siaya District Accountant?

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

(a) I am aware that Kshs7.5 million is being held by my office in respect of various deposits made to Siaya District Account.

(b) I am also aware that there are families which are going through very difficult times as a result of this effort. The funds will be made available once an on-going reconciliation exercise covering all district treasuries is complete.

Mr. Donde: Mr. Deputy Speaker, Sir, this money was meant for widows and orphans through the Public Trustee. Of course, this money is for dead people who worked for this Government and it is supposed to be paid to the beneficiaries. As much as I understand that he has to do some reconciliation, this money had already been sent to the districts and the families had been notified that their money was there. These families are going through a lot of anguish and suffering and are always at the door steps of hon. Members of Parliament asking them to assist them. Could this money be sent as soon as possible to the district to assist the families of those people who died? Could the Assistant Minister give me a timeframe so that when I go to my constituency this weekend, I will tell them that this money is coming within such a period of time?

Mr. Samoei: Mr. Deputy Speaker, Sir, we did authorise disbursement of money to the very urgent cases, sometime last year, and a total of Kshs1 million has already been disbursed. As Mr. Donde has correctly said, the reconciliation exercise is very critical and I do intend to clear it in the next one month. Hopefully, when the new year Budget will be disbursed, I am sure we will get this money to the district.

Mr. Anyona: Mr. Deputy Speaker, Sir, I quite do not understand what the Assistant Minister is talking about. It is the office of the Public Trustee that is responsible for these funds. Once they have accessed the benefits that are due, they are directed to the beneficiary. The office of the DC is merely used as a channel to get this money to the owners. I would have thought that all the reconciliation has been done by the Public Trustee. What reason would the Assistant Minister have to go and hijack the money; go and say that he wants to take it back and reconcile the account? With whom does he want to reconcile? There is something fishy in this particular issue, and the Assistant Minister should explain. This is because the law is very clear; he has no authority at all.

Mr. Samoei: Mr. Deputy Speaker, Sir, I agree with Mr. Anyona that the reconciliation actually ends with the Public Trustee. The unfortunate scenario was that our district treasuries operated one account for their recurrent and development budgets, including deposits like the ones which are in question here. As from 1997, we have asked the district treasuries to have separate accounts so that we do not end up in a mix-up, like the one we are in today. The reconciliation I am talking about is between the various accounts at the district treasuries. This is a very unfortunate case, indeed, but I intend to expedite that exercise, as I said, in a month's time.

Mr. Otula: Mr. Deputy Speaker, Sir, this case is prevalent in all districts within the Republic of Kenya. In Rachuonyo, we have a similar case where a large sum of money was recalled by the Office of the President. Could the Assistant Minister tell this House how this money was used in the Ministry?

Mr. Samoei: Mr. Deputy Speaker, Sir, I did not say that the money was used in the Ministry. In my answer, I did say that I have, in safe keeping, that money until the reconciliation in the various district treasuries is over.

Mr. Kamolleh: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead

this House that reconciliation of the various accounts was being done when, in fact, any accountant knows very well that in your books---

Mr. Deputy Speaker: Mr. Kamolleh, what is your point of order?

Mr. Kamolleh: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to mislead this House by saying that there was reconciliation to be done when, in fact, the accounts had their own titles? What reconciliation was supposed to be done when that account---

Mr. Deputy Speaker: Order! You are arguing!

Mr. Kamolleh: Mr. Deputy Speaker, Sir, I am not arguing. If you---

Hon. Members: You are challenging the Chair!

Mr. Kamolleh: Let the Chair go on!

Mr. Deputy Speaker: Mr. Kamolleh, I now require you to leave the Chamber for the rest of this afternoon sitting.

(Mr. Kamolleh withdrew from the Chamber)

Mr. Muite: Mr. Deputy Speaker, Sir, the office of the Public Trustee falls under the Department of the Attorney-General. This is not taxpayers' money, but it is money which belongs to those people who have died. This is money which is generated from their estates.

Could the Assistant Minister explain to this House why it was necessary to recall the money to the Office of the President instead of sending it back to the Attorney-General? Why was it necessary to recall this money to the Office of the President when he could have reconciled the accounts without actually recalling the money? Why did he have to recall the money in order to reconcile the account, when he could have reconciled the account when the money was still in the District Treasury? Could the Assistant Minister assure this House that the Office of the President has not spent this money which belongs to deceased persons, and which should have been given to the widows and orphans?

Mr. Samoei: Mr. Deputy Speaker, Sir, I can confirm to this House that the money is in safe keeping. It was necessary for us to recall this money because much of it actually had already been spent on other unrelated accounts. We had to recall whatever was still available so that we could reconcile the accounts and know how we would pay whatever had been spent irregularly by the district treasuries.

Mr. Donde: Mr. Deputy Speaker, Sir, this issue has been taken seriously by the people of Siaya. In fact, it was discussed very extensively in the last DDC meeting. We need an assurance from the Office of the President that the orphans and widows should not be made to suffer when their money was rightly sent to them by the Public Trustee because these are people who have lost their loved ones. It is a terrible anguish. As an hon. Member of Parliament, I would like an assurance from the Assistant Minister that this money will be available within the next one month to the families and people who are affected.

Mr. Samoei: Mr. Deputy Speaker, Sir, I would like to assure Mr. Donde that this money is in safe keeping. As I have undertaken to this House, we shall complete this reconciliation exercise in good time so that we can release this money to the families or the beneficiaries.

I also want to assure him that I support his view that some of the people masquerading as Presidential candidates are too old!

Mr. Deputy Speaker: Order! Mr. Samoei, is that part of the Public Trustee's responsibility?

Next Question, Mr. P.K. Mwangi.

AUCTIONING OF NJIRI'S HIGH SCHOOL

(Mr. P.K. Mwangi) to ask the Minister for Education:-

(a) Is the Minister aware that Njiri's High School risks being auctioned for a debt of Kshs11 million?

(b) Could he explain how this debt came to be and could he table the list of creditors?

(c) What immediate action is he taking to ensure that the school adheres to Government school fees guidelines?

Mr. Deputy Speaker: If Mr. P.K. Mwangi is not here, his Question is dropped.

(Question dropped)

HIGH RATE OF BRUCELLOSIS INFECTION

Mr. Thirikwa: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Public Health the following Question by Private Notice.

(a) Is the Minister aware that cases of brucellosis are increasing at an alarming rate in Shamata Location of Ndaragwa Division?

(b) What measures is the Government taking to arrest the situation and provide treatment to the already infected persons?

The Minister for Medical Services (Mr. Mohammed): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any cases of brucellosis in Shamata Location of Ndaragwa Division.

(b) There has been no outbreak of the disease in that location. However, the Ministry will continue to monitor the situation, and should there be any cases, they will be treated promptly at health facilities.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, I do not know whether I am right or the Minister is. Nevertheless, I am the hon. Member for Ndaragwa Constituency and I know in Shamata Location, there has been a major increase of brucellosis. Therefore, I do not know what supplementary question to ask. Is the Minister willing to go down to Shamata Location because what I am saying is the correct position on the ground? But the fact of the matter is that brucellosis is a major disease in Shamata Location.

Mr. Mohammed: Mr. Deputy Speaker, Sir, I am ready to go there. My officers are already there. We do not have a record of brucellosis disease in that location.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, possibly, if the Minister so requires, I can actually volunteer to go to Shamata Dispensary and bring names of people who have been treated suffering from this disease.

We all know that brucellosis is a disease that is actually confused with other diseases. It takes long for the disease to be diagnosed and for the patient to receive the right treatment. This makes its treatment very expensive.

In view of these facts, would the Minister consider to introduce a laboratory unit within Shamata Dispensary so that the diagnosis of this disease can be done much early for early treatment because many people are spending too much money to treat it? I believe that if this disease is diagnosed much earlier the treatment will be cheap.

Mr. Mohammed: Mr. Deputy Speaker, Sir, the available report we have from Shamata Dispensary and Nyahururu District Hospital shows that there has been no indication of brucellosis outbreak or any person treated suffering from this disease in those health facilities. I do not know how the hon. Member knows there are people suffering from this disease because our records at the district Hospital and dispensaries do not show cases of such a disease.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, Shamata Dispensary has no capacity to diagnose brucellosis disease. Therefore, what happens is that every patient who visits Shamata Dispensary suffering from this disease is treated for malaria and typhoid before he is sent to private doctors who then diagnose brucellosis disease. I do not expect the Government to have proper records because the records are with the private doctors in Nyahururu Town.

Mr. Deputy Speaker: But those records are still accessible to the Government. Surely, Mr. Minister, ask your medical health officers to go and investigate this matter further.

Mr. Mohammed: Yes, Mr. Deputy Speaker, Sir. I will ask them to investigate again.

Mr. Thirikwa: Mr. Deputy Speaker, Sir, now that the Minister has accepted to investigate this matter further, when can I expect a proper answer from him?

Mr. Deputy Speaker: Mr. Minister, how much time do you want?

Mr. Mohammed: Mr. Deputy Speaker, Sir, a minimum of one month!

Mr. Deputy Speaker: Order! Mr. Minister, this information is already on record with the private doctors. I will give you two weeks. Within two weeks from now, if the Minister does not give you that information or bring it to the House, Mr. Thirikwa, you can stand on a point of order and ask me to make sure that he does.

That is the end of Question Time. Let us move on to the next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

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

THE PUBLIC OFFICER ETHICS BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
12, 13, 14, 15, 16, 17, 18,*

19 and 20 agreed to)

Clause 21

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 21 of the Bill be deleted and the following substituted:

21. A public officer shall practise and promote the principle that public officers should be -
- (a) selected on the basis of integrity, competence and suitability; or
 - (b) elected in fair elections.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 21 as amended agreed to)

(Clause 22 agreed to)

Clause 23

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 23 of the Bill be amended by deleting Clause 23(1)(b) and substituting the following: (b)he allows or directs persons under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 23 as amended agreed to)

(Clauses 24, 25, 26, 27 and 28)

Clause 29

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 29(5) be amended by deleting "five" as it appears on the third line and substituting it thereof with "two", so as to read:

A fine not exceeding Kshs2 million or imprisonment for a term not exceeding two years or both.

I think when the debate was going on in the House during the Second Reading, it was pointed out that there is a great discrepancy between the penalties under Subsection 5 and under Section 31. I think there was some merit in that criticism, so I am reducing the penalty under Subparagraph 5 as proposed.

(Question of the amendment proposed)

Ms. Karua: Mr. Temporary Deputy Chairman, Sir, I support the proposed amendment, and appreciate the gesture by the Attorney-General. It is true that Section 29, as it is, has a very severe penalty for someone disclosing information on the declarations made by public servants. I think there is need to balance this and the penalties under Section 31 for failing to give truthful information about one's assets. Otherwise, the Bill, is protecting details of the public officer's assets more than penalising those who deliberately mislead the relevant authority in their disclosures.

I support the amendment.

Mr. Gatabaki: Mr. Temporary Deputy Speaker, Sir, I also support the amendments and commend the Attorney-General for consenting to this agreement. If only the Attorney-General could agree to that kind of agreement with regard to the Media Bill, which has given this nation a very bad name globally, we could have a beautiful Media Bill. We commend him for agreeing to reduce the penalties.

(Question, that the word to be left out be left out, put and agreed to)

(Question, that the word to be inserted in place thereof be inserted, put and agreed to)

(Clause 29 as amended agreed to)

(Clauses 30, 31, 32, 33, 34, 35, 36, 37, 38 and 39 agreed to)

(Clause 40 agreed to)

(Clause 41 agreed to)

First Schedule

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, the First Schedule of the Bill be amended

- (a) in paragraph 4 by inserting the word "Chief Justice" before the item that reads "Judges of the High Court of Appeal";
- (b) in paragraph 6 by inserting the words "Principals, headmasters and head teachers" after the item that reads "Public officers of the Teaching Service Commission in Job Group "P" and above";
- (c) by deleting paragraph 7 and substituting the following-
 - 7. Co-operative Societies
 - Members of the Committee, within the meaning of the Co-operative Societies Act, of a co-operative society.
 - The two most senior public officers of a co-operative society who are not members of the Committee.
 - Public officers of a co-operative society in Job groups "H" and above or their equivalent.

(Question of the amendment proposed)

Ms. Karua: Thank you, Mr. Temporary Deputy Chairman, Sir. I rise to support this amendment. It is important to recognise that some of the problems in our co-operative sector are brought about by corrupt members of the management committees. It is, therefore, important that they be brought under the Bill so that they can declare their wealth as a way of ensuring that members of the management committee do not take the opportunity to loot the assets of their members.

I also note that principals, headmasters and officers in the teaching profession, above Job Group "P", the Chief Justice, Judges of the High Court and the Court of Appeal have been brought within the ambit of this Bill. These are desirable amendments which I support.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(First Schedule as amended agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move that a Committee doth report to the House its consideration of the Public Officer Ethics Bill and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT AND THIRD READING

THE PUBLIC OFFICER ETHICS BILL

The Temporary Deputy Chairman (Mr. Imanyara): Mr. Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Public Officer Ethics Bill and approved the same with amendments.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister of State, Office of the President (Mr. J. Nyagah) seconded.

(Question proposed)

(Question put and agreed to)

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to move that the Public Officer Ethics Bill be now read the Third Time.

The Minister of State, Office of the President (Mr. J. Nyagah) seconded.

(Question proposed)

Mr. Gatabaki: Mr. Deputy Speaker, Sir, we have given this nation the Public Officer Ethics Bill. It is very comprehensive in many ways. The Attorney-General has done a very commendable job.

But having said that, the challenge now is for the Government to comply. It is very good to have a Bill and an Act like this. But will the Government respect Parliament now, in respect to the appointment of officers based on integrity, competence and suitability? Will the elections be fair and free? The challenge is now on compliance. It falls squarely on the Government.

We have put every public officer, from the Chief Justice to the Member of Parliament, under surveillance. Will the Government comply with that? Mr. Attorney-General, the challenge now is for the Government to comply. From today, we should start seeing any appointment to public office being based on competence, professionalism and nothing else. Political correctness has completely been fizzled out by this Bill. From now on, the challenge includes the Ministers. Maybe, the time has come for even the President to comply with this Bill by appointing people of known professionalism to high offices. The time for tribal appointments is over. The time for having incompetent people in the Government is over. So, Mr. Attorney-General, this is a Bill to give to the entire world. It is not for the International Monetary Fund (IMF) and the World Bank. It is the people of Kenya who deserve professionalism, competence and integrity in public offices.

Thank you.

Mr. Kibicho: Mr. Deputy Speaker, Sir, it is the wish of Kenyans that this Bill be implemented immediately. We have a history in this country where Bills have been passed and the commencement date becomes a problem.

Kenyans are waiting eagerly to see a country where you can do business cheaply without problems. Kenyans are waiting for a country where corruption is brought under control. Kenyans are waiting for a country where fairness takes place. So, it is the wish of Kenyans that this Bill be implemented immediately.

Mr. Imanyara: Mr. Deputy Speaker, Sir, while I commend the Attorney-General, the Government and the House for passing this important landmark Bill, one must also say that it is unfortunate that it had to take the intervention of the World Bank and the IMF to get the Government moving. But as Mr. Gatabaki said, the major challenge is not just implementation, but enforcement of the provisions of this Bill, particularly at this time when Kenyans are preparing to go to an election, and when public officers will be expected to serve the Kenyan people with impartiality without taking sides. Will those whose responsibility it is to enforce this Act ensure that it is enforced uniformly without discrimination? That is the challenge as we go towards the elections and every Kenyan, and those who are outside Kenya who have been interested in seeing this law passed, the major challenge for them is to ensure that this Government does not implement it selectively as it normally does. It punishes those public officers that live in accordance with the letter and spirit of the law while promoting those who are undermining the law that we have passed. As I mentioned, we do hope that the Bill will receive Presidential Assent within a week, if not days, so that we can go into the elections with a Public Service and public officers that are not required to take sides in support of the ruling party.

Thank you.

Mr. Mbituru: Thank you, Mr. Deputy Speaker, Sir, for giving me the chance to speak on this Bill. It is true that it is a very important Bill for this nation. It is going to curtail the trend that has been used mainly by the civil servants in this country to enrich themselves. It has been used by certain individuals in the political arena to collect funds in the pretext of Harambees and in the process, kickbacks never cease in all contracts that are awarded by the Government. Those responsible, that is the Accounting Officers, engineers in particular Ministries--- I also ask Members of Parliament, especially Ministers--- There was a history here that some Members were receiving kickbacks. It is good that, at this particular time, we are able to cut down on the misuse of offices. I believe the fact that members of the public will not conduct Harambees or solicit funds in their offices is a great step towards the right direction. In any case, Government offices will no longer be used by officers to enrich themselves.

Thank you.

Mrs. Sinyo: Thank you, Mr. Deputy Speaker, Sir. For once you should give credit where it is due. I rise to commend the Attorney-General, who was my boss for a while, but my senior in the profession, for bringing this Public Officer's Ethics Bill. This Bill came at the right time because the nation has been waiting for it. It is really long overdue. This Bill, as it is, is not prejudiced. In its implementation the Bill is going to take care of both the issue of gender and affirmative action because it is even going to consider those who are under-privileged or marginalised in one way or the other.

Mr. Deputy Speaker, Sir, it is a Bill that is holistic in approach because it is going to do away with discrimination or extortion by public officers. These practices will cease because we want public officers to render services without enriching themselves. Sometimes when public officers attend meetings on behalf of the Attorney-General or the Minister of State, Office of the President, they make themselves rich after acquiring property or money irregularly. Some of these practices will now be under strict control. Having been a civil servant, I am really grateful because this time around, we are going to have a transparent Government that is going to serve the people of Kenya. The Bill is going to benefit the wananchi.

Thank you, Mr. Deputy Speaker, Sir.

Ms. Karua: Thank you, Mr. Deputy Speaker, Sir. I want to add my voice and say that this Bill is a step in the right direction, but the main challenge is in its implementation. I do remember that during the IPPG discussions, we actually said that public officers should not use their offices to solicit Harambee money. This was mainly directed at the provincial administration, but we know that up to today, they collect money. We want to see commitment this time round on the part of the Government by ensuring that this Bill is fully implemented.

Mr. Deputy Speaker, Sir, I am also challenging the Attorney-General to come up with draft model rules which can be followed by the various relevant authorities. What, for instance, constitutes proper use of an official vehicle? Should an official vehicle be used to ferry children to school; someone's spouse to work, or to go on a leisure tour? To my mind, an official trip involves an official vehicle taking an officer from his house to the office and back. For other family affairs, an officer has to look for a vehicle to do the rest for his family.

Mr. Deputy Speaker, Sir, we have also seen totally unethical behaviour being exhibited by Ministers and senior public servants. While this Bill was pending, Ministers were busy carrying out partisan campaigns using Government helicopters. This is obviously unethical behaviour, and that is why we are saying that the Attorney-General should come with model rules so that nobody says that he did not know that his behaviour constituted unethical behaviour. We also want to see the Government implementing the PAC and PIC Reports.

If an officer has abused his office, the first step we should take to show that we are serious about ethics is to remove such an officer from this position.

Mr. Deputy Speaker, Sir, the greatest challenge is to delink civil servants from partisan politics. Let us not see Permanent Secretaries in political rallies of the ruling party. Let us not be told they are on official duties when they are attending campaign rallies. If this Bill is to be useful to Kenyans, instead of just being used as a bait to the international monetary institutions for purposes of getting aid, let us see seriousness in its implementation.

I beg to support.

The Attorney-General (Mr. Wako): Thank you, Mr. Deputy Speaker, Sir.

I want to commend the hon. Members for the positive contributions that they have made. I want to assure this House that the Government will implement to the letter the spirit of this Act. I just want to say that as you are aware, various commissions are now mandated under the Act to come up with detailed codes of ethics and ways of dealing with these declarations. They have been given 90 days to do that under this Bill. Therefore, although the Bill will not come into operation immediately, it will come into operation after the commissions have done their work.

Therefore, I want to take this opportunity to make two appeals. One, to the various commissions which have been mentioned under the Bill to get on with the job of coming up with the detailed codes of conduct which are consistent with the principles inundated in this Bill, and the detailed procedures for dealing with the declaration of income, assets and liabilities. My office is ready to help the commissioners and civil servants, and I think they should start behaving as if the Bill is already in force.

With those few remarks, I support.

Mr. Deputy Speaker: Thank you, hon. Members. Perhaps you may wish to know that Parliament is ready to prepare its own draft law on the code of conduct and ethics. So, we are ahead of the field.

(Question put and agreed to)

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

Next Order!

Second Reading

THE NATIONAL COMMISSION ON
GENDER AND DEVELOPMENT BILL

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to move that the National Commission on Gender and Development Bill be now read a Second Time.

Mr. Deputy Speaker, Sir, this is a very important Bill which is going to put in place a commission which will be looking into national development plans, programmes of action to ensure that the inputs in gender issues are also addressed. As this House is aware, I set up a task force to review laws relating to women way back in October, 1993, and the task force had the following objectives:

(a) To review all existing laws, regulations, practices, customs and policies which have the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status on the basis of equality of men and women in civil, political, economic, social and cultural rights or any other field.

(b) To make recommendations to modify, amend or abolish existing laws, regulations, practices, customs or policies which constitute discrimination against women.

(c) To consider and recommend a comprehensive Bill which will render unlawful any discrimination on the basis of sex and promote equality of opportunity between all persons.

(d) To make such further recommendations incidental to the foregoing circumstances that it deems necessary.

Mr. Deputy Speaker, Sir, as I indicated when I was moving another Bill, the task force did go round all the provinces and solicited views from everybody, including men and women. They also went overseas and they came up with a voluminous report. In that report, they recommended that a number of Bills should be passed by this Parliament. One of the Bills that they recommended is this Bill of the National Commission on Gender and Development. As you are aware, Section 82 of our Constitution prohibits discrimination in the enjoyment of rights enshrined under our Constitution on the basis of colour, creed, political opinion and place of origin, but it also says on the basis of sex. This Bill is to ensure that the provisions of our laws under which all Kenyan citizens must enjoy their human rights irrespective of whether they are male or female; irrespective of whether they are Luhya, Kikuyu or Mijikenda, and so forth, are given equal opportunities to share in the development of this country.

Mr. Deputy Speaker, Sir, Kenya is a member, and ratified in 1984 of the Convention of Elimination of Discrimination against Women. Kenya has also been at the forefront of ensuring that women do get their rights, because we believe that our women are equal to us and more important, in ensuring that the less disadvantaged members of our community are given equal opportunities. I really want to emphasize this issue of equal opportunities because it is at the heart of human rights. If we are going to enjoy our rights equally, then each and every person in this country must be given an equal opportunity to advance and to enjoy those rights. That is why the Government has, in recent times - I think you have noticed - focused on enabling the disadvantaged members of our society by giving them opportunities so that they can enjoy their rights like everybody else.

Mr. Deputy Speaker, Sir, this House has already passed the Children Act which, again, is emphasising on the rights of children and giving them the opportunity to be able to claim and assert their rights. Only last week, I published a Bill relating to persons with disabilities. It is also another Bill which is focused on ensuring that the disadvantaged section of our community; persons with disabilities, are also able to enjoy their rights on an equal footing with everybody else in our society. I do hope now that the scribes are there listening to what I am saying, that, that particular Bill will be given as much wide publicity as is necessary. I am saying this because in that Bill, there will be several obligations on various persons, for example, contractors who are putting up buildings and so on. I would not want them to wait for the Bill to become operational before they are forced by the law which will be established under that Act to comply with ensuring that their structures and buildings are accessible to persons with disabilities. So, the wider the provisions of that Bill are published, people are put on notice; they can start now rather than waiting for the Bill to be enacted to comply. This Bill is one such Bill. We will now deal with the gender issues.

Mr. Deputy Speaker, Sir, we all know that there have been traditions, customs, culture and so on, which have tended to put women in a disadvantaged position, where they cannot say that they have equal opportunities as men. We all know that. This Bill will now address that issue. It will also address the issue of development so that we all develop together.

Mr. Deputy Speaker, Sir, I will not be very long, but let me just go briefly onto some statistics to show how our ladies are disadvantaged. A study on urban unemployment rate in 1998/99 showed that 74.72 per cent of those unemployed in towns were women. Of those, almost one-third, 32.5 per cent, had secondary education or better. But if you take those who had, at least, primary education, then 81 per cent of those unemployed are women. If you now target just on the issue of unemployment at the greatest potential age group of 20 to 29 years, again, there you will see that women have been particularly hit. Here we are talking of that age group which has benefitted from the progressive educational policies that the Government has put in place and, therefore, who are basically as much educated as their menfolk. The 57.2 per cent of the unemployed in that bracket are female.

Furthermore, when it comes to earnings and so on, the mean monthly earnings in urban areas of female was only 58.5 per cent of their male counterparts. Whereas one in every two women in their 20s in the urban areas was unemployed, only one out of five men in the urban areas were unemployed. If you go to the household, you will find that 52.6 per cent of the urban female-headed households are below poverty line in contrast with only 40.40 per cent of male-headed households. Therefore, the employment figures speak for themselves. Obviously, we have to do something to correct it. When we come to the contribution to the economy, you will find that the contribution of women to the economy has been underrated because most of what they do is not calculated in the Gross National Product figures. They just work and it is not taken into account. It does not mean anything but they work very hard and for long hours. In fact, they work for almost 24 hours during daytime and at night they are also made to work by their men. With this overworking, these figures ought to be reflected somewhere. Their contribution is very much underrated.

We also know that women are the engine of development in rural areas. Without women working in the rural areas on producing their crops on their small plots, engaging in agro-based industries and so on, the rural area would not be what it is today. It would be far much worse. It is the women who keep the rural area alive and kicking. It has been shown that women want that opportunity to be able to develop and they have shown it such that Members of Parliament feel it. We have today more than 40,000 women's groups in the country, with a membership of more than 4 million. It is no wonder that every other weekend, Members of Parliament hold Harambees. When they hold Harambees they do not say that they will conduct a Harambee for the men's group doing some development work in a particular area. They conduct fundraising meetings for our mothers who are toiling very hard in the rural areas to eke a living. They are able to do that because they have come together to promote their village in a particular area of development. So, they are very well organised and their paid-up capital of all this is more than Kshs400 million. It has been shown that given the opportunity, they can do it.

It has also been shown that whereas there has been a greater dropout rate from schools by girls, who then become almost illiterate after a few years, the girls are so determined that they have now caught up with men in the adult literacy classes. For example, 80.7 per cent of those attending adult literacy classes between the ages of 15 and 24

are women, compared to men. Whereas, for those in the age group of 35 and above, 71.1 percent are males. This young group that is coming up is fairly determined. It is catching up with the men because of that great yearning for education. Of course, the Government has done a lot since Independence to improve the economy of this country, and to focus on children. I want to take this opportunity to put on record the fact that our own President has been much focused on issues of education, particularly the education of girls in this country. Here in Nairobi alone, he has been identified with development of Moi Girls High School, State House Girls High School, Pangani Girls High School, Kenya High School, apart from sundry high schools where also ladies go.

If there is one legacy that our President will leave in this country, it is in the area of promoting education for women in this country, and also appointing women to key public service positions in the Government. A good example is the case where the Head of Public Service, the Permanent Secretaries in the Ministries of Foreign Affairs and International Co-operation, Trade and Industry and Office of the Vice-President and Ministry of Home Affairs, and so on are ladies. The same can be seen in the professional cadre, where in my legal profession the entrance point at the university is almost 50-50. It is not because women are being favoured, or that there is a quota reserved for them, but because they have done well to deserve a place in the faculty of law. You will find them on the High Court Bench, Court of Appeal and all levels of the Judiciary. At least, three key departments in my office are headed by women.

I do not want to belittle what has been achieved in this country by way of bettering the conditions of women, but we also recognise the fact that a lot needs to be done, hence, the publication of this National Commission on Gender and Development Bill, whose purpose is to establish a National Commission on Gender and Development to provide for the management, powers, functions and duties of the Commission and for connected purposes. In the definition clause, which appears on page 192, I want specifically to refer this august House to the definition of gender mainstreaming. What does it mean? It means the equitable distribution of resources, opportunities and benefits of the mainstream development process, through the integration of equality concerns in the formulation and analysis of programmes, policies and projects, in order to ensure that they impact positively on both men and women and bridge gender disparities. I think the definition speaks for itself. I do not know how to explain it. At the end of the day, we are talking about development in any form at all. Is this development impacting equally on men and women? If there is a disparity, is the disparity in the process of implementation of whatever project is being addressed so that the end outcome is an equal impact on men and women, both in terms of income, opportunities and everything else?

My definition is important because this Commission that will be established will be operating on this definition. It will actually implement this definition of gender mainstreaming. We have the various clauses which normally go with the establishment of a body corporate and the Commission will, indeed, be a body corporate. The headquarters of the Commission will be in Nairobi, but it will have offices throughout the Republic because women are not just in Nairobi; they are everywhere in the country. The composition of the Commission is very well thought out. We want people who are committed experts on various economic and social issues. A person who eminently qualifies on gender issues will be appointed by the Minister to be chairperson.

In that Commission we shall have key Ministries which are concerned with development. The Ministries responsible for gender issues, education, health, finance, labour and agriculture will be represented. All this must be done within the legal environment, so the Attorney-General's office will also be represented. We have eight other members appointed by the Minister, of whom at least four shall be women. If that is observed, the membership will comprise of four men and four women, but the women could be more. Then we will have eight other members who will be appointed by the Maendeleo ya Wanawake and the National Council of Women of Kenya, after consultation with other non-governmental organisations concerned with issues affecting women, of whom at least one shall have knowledge and experience in matters relating to gender, disabilities and laws. One member shall be nominated by the Kenya Law Reform Commission. I would like to notify this House that I will very soon publish the Kenya Law Reform Commission Bill. We will do away with the current Bill and bring in a more modern Bill, so that as soon as the new Constitution is in place, we can have an effective Kenya Law Reform Commission, which will be responsible for amendment of our laws on a more systematic and consistent basis.

Mr. Deputy Speaker, Sir, I recall that when we began this ambitious programme of law reforms in this country, I found that the Kenya Law Reform Commission was not properly constituted to enable it do expeditiously what the Government wanted. That is why I set up very many task forces to look into this issue. Under the new constitutional dispensation, we would like to have an effective and functioning Kenya Law Reform Commission. We now want law reformed on a more systematic manner. I am glad that the Cabinet has already approved the Bill, which I will publish shortly. Since we are talking of development, one of the members of this body will be an economist, while another member will be a social scientist. These will hold office for a term of three years, and will be eligible for re-appointment.

We are aware that sometimes we form commissions which end up not functioning because their members do not take their duties seriously. So, we are trying to take care of such cases of laxity in this particular Bill. We have said

that Ministries which will be represented in the Commission should not send junior officials to sit on it, thereby rendering it ineffective; they will have to send an officer who will not be below the rank of a Deputy Secretary. In effect, this means that the Permanent Secretaries will have to attend in person. If they will not, they must send their deputies to represent them. That is now part of the law.

We are not going to give Permanent Secretaries the discretion to appoint executive officers or some secretaries or clerks to represent them in the Commission's meetings, when they will not know what the Commission will be doing. Permanent Secretaries' representatives will not be below the rank of a Deputy Secretary. We are also saying that if a member absents oneself from the commission's meetings without reasonable cause for three consecutive meetings, that person will cease to be a member of the Commission, and will be replaced. So, we want members of the Commission to take their duties seriously.

Mr. Deputy Speaker, Sir, Clause 6 deals with the functions of the Commission. The main object and purpose of the commission will be to co-ordinate and facilitate gender mainstreaming in national development and advise the Government on all aspects thereof. Earlier on, I used the term "gender mainstreaming". That will really be the focus of the Commission. In addition, we seek to give the Commission 14 other comprehensive functions, so that it can look into these issues from all angles.

Mr. Deputy Speaker, Sir, these functions are elaborated on pages 197 and 198 of the Bill. The commission will, among other things, participate in the formulation of national development policies, exercise general supervision over the implementation of national policy on gender and development, initiate legal reforms on issues affecting women, formulate programmes or advise on the establishment and strengthening of institutional mechanisms, which promote gender equity in all spheres of life and, in particular, in education, employment and access to national resources. It will also evaluate aid policies to determine their impact on Kenyans. There are 14 aspects of these functions, but I do not want to bore hon. Members by going through them one by one.

Of course, the Commission will have the usual powers, just like any other Commission. Clause 7 talks about the Commission members' remuneration; Clause 11 provides that there shall be a director of the Commission, whose duties are clearly outlined. The Bill also talks about the staff of the Commission as well as the departments it will have. There is also the usual clause which relates to the Commission's financial year, investment of its funds, among other things.

Mr. Deputy Speaker, Sir, I have explained the main purpose of this Bill. So, I do not want to be too long. Hon. Members may raise any issues they would like me to address when I reply to this debate. So, I will end there and ask Mr. Osundwa to second this Bill.

With those remarks, I beg to move.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to second this Bill.

The Mover has taken close to 40 minutes elaborating on the substance of this Bill. He has clearly explained all the issues contained therein. You realise that this is a very simple and straightforward Bill, unlike the Domestic Violence (Family Protection) Bill, which was fiercely opposed by some hon. Members here. However, I believe that with the good sense of judgement of the hon. Members, we will pass it.

Mr. Deputy Speaker, Sir, if you look at the Bill's Memorandum of Objects and Reasons, you will realise that it seeks to co-ordinate and facilitate gender mainstreaming in national development. It will be interesting to hear what the Minister for Finance will have in his Budget Speech tomorrow, especially on the issue of women development. I believe that he has done his best to channel a big percentage of our national resources to this area. Among other things, the Bill seeks to initiate legal reforms on issues affecting women. You find that although women in this country constitute more than 50 per cent of our population, they do not have access to land resources.

For a long time, women have not been allowed to own land. They comprise the majority of the country's farm workers. They would like to develop land and farm. However, because of stereotyping and some existing customs and traditions we have applied to women, they are only found on farms and carry on small businesses in urban areas. We need to empower women. I commend the Attorney-General for bringing this Bill here. I believe that both sides of the House will support it.

Mr. Deputy Speaker, Sir, among other important natural resources, we have land, water and human resources. When I talk about human resources, I have women in mind. Let us look at how we utilise our waters as a resource. A lot of water goes to waste in this country. Sometimes, it goes to benefit our neighbouring countries. Water from the Lake Victoria is extensively utilised in Egypt. Egyptians produce a lot of food which is also exported to this country, yet much of the water comes from Kenya. What are we doing about irrigated agriculture? If we took a serious policy of empowering women--- Let us adopt irrigated agriculture system in this country. Let us empower women to own and irrigate land. They will utilise this resource, and Kenya will be a food exporter as before.

Land matters in this country have not been addressed adequately. You will find that there are large tracts of

land owned by absentee landlords, and nobody is tilling his or her land. It lies idle, and if we pass laws so that we make sure that any land that is not utilised properly is distributed to those who want to utilise it, Kenya would export a lot of food because we have ample rainfall in this country. We have sufficient water. We should make deliberate efforts or legislate just to make sure that where anybody owns land in this country which is not properly utilised, it is given to the landless. In that way, we will make sure that it is properly utilised.

Mr. Deputy Speaker, Sir, on the question of human resources, as I mentioned, women constitute a bigger percentage of our population. The Government has made deliberate efforts to provide education to both sexes, boys and girls, since Independence. I am sure, with the passage of the Children's Act, more opportunities will be available to girls and women. I believe that if we motivated this bigger population by providing equal employment opportunities and economic empowerment, then, we shall utilise our human resources, especially the women.

There are so many NGOs in this country which operate in the gender sector. What this Bill seeks to do is to bring together all these players so that services that are provided either by the international or local partners can be harmonised for the benefit of our women lot.

I do not intend to make a long speech since the Mover has covered or touched on every aspect that matters in this Bill. I just want to beseech my colleagues to pass this Bill during this sitting so that, maybe, in the course of next week, we can go into the Committee of the whole House.

I beg to second.

(Question proposed)

Ms Karua: Thank you, Mr. Deputy Speaker, Sir. I rise in support of the Bill. It is a step in the right direction, but I wish that instead of having a Gender Commission, we would be talking of an Equality Board which will cover more than a Gender Commission Board would. This is because I am beginning to wonder how many commissions we are going to have in this country. Are the public resources not already overstretched enough in terms of the number of commissions? We need a Gender Commission. Is it possible to consolidate this Commission so that it deals with more than gender, so that it can also deal with issues of disability? Perhaps, we ought to think whether we could incorporate more than gender so that we could have an Equality Board, such as the one proposed in the Equality Bill 2001, which is pending for republication.

Looking at the Bill, although well intentioned, it is shy. It is talking of gender equity, and stopping there. Why do we not talk of both gender equity and equality? If we are thinking of mainstreaming gender; of giving equal access and opportunities to both men and women, let us not be shy and just talk about equity. Let us talk about both equity and equality. That is the ultimate goal. That is why we are setting up the Commission. So, there is a difference between equity and equality. A simple look at the dictionary will prove this. What is equitable may not amount to equality.

So, we should be talking about both equity and equality. There are situations where you cannot achieve equality, and the best we could do is to achieve equity. But there are situations where equality is the desirable goal. We are talking about equality under the law, of access and entitlement to resources, employment and education. Therefore, we ought to replace the areas where the word "equity" appears in the Bill, to include both equity and equality.

I note that in the Memorandum of Objects and Reasons, and also under section 6 which sets out the tasks of the Gender Commission, one of the tasks is the initiation of legal reforms on issues affecting women. I am suggesting here again that we go a little further. We should not only talk about initiating reforms on issues affecting women, but we also include, as the goal of the Commission, reforms of all laws to remove any clauses that are discriminatory of women so that we know that the ultimate goal of these reforms is to end discrimination based on gender. That should be the direction that we should be heading to.

I am proposing that under the proposed Clause 6, we should make it explicit that the Commission has a task to initiate the reforms of all laws that discriminate against women. We should also have it as a goal of the Commission, to promote policies and programmes that foster and nurture a partnership of the genders because we are not looking to a Commission that will be one-sided. Gender refers to both men and women. So, we need to talk about nurturing understanding between the genders in this country. By so doing, we can create awareness and promote mutual respect between the two genders. Once we do that, then we cannot hear statements coming from this House that are disparaging against one gender like it happened during debate on the domestic violence Bill.

Mr. Deputy Speaker, Sir, I have looked at Clause 5 which talks about the composition of members of the Commission, and in particular, Clause 5(I)(i) where those who drafted this Bill, in their wisdom, said that the four women should be nominated jointly by Maendeleo ya Wanawake and National Council of Women of Kenya. Why did the initiators of the Bill want to choose for the women of Kenya the organisations that should represent them? I

appreciate that both the organisations named are organisations whose membership consists of the women of Kenya. Both are leading women organisations. But since there are many womens' organisations, we need to rethink how we can harmonise the appointment of the four women so that they can truly reflect the broader thinking of the greater number of women, so that we can avoid having the Government being accused of favouring organisations whose leadership is tilted towards the Government.

I believe that the names of those womens' organisations were put with the best of intentions, but why has the Federation of Women Lawyers of Kenya (FIDA) not featured as one of the groups that should nominate? We appreciate that not all organisations are equal in size and output, and that not all the women's organisations can be named as nominating bodies. We need to broaden this so that we know that we are actually bringing in something that is representative of the women of Kenya. Another way of making it even more representative is that after these names have been nominated by those organisations, let them pass through the relevant Committee of Parliament, so that if there are any murmurs, the representatives of the people are able to have an input. The last time women's organisations were asked to nominate commissioners, male politicians sponsored splinter groups within the women's organisations. To guard against such eventualities, let us rethink this clause and broaden the manner in which the women organisations nominate the four members of the board. We should have a process through which there can be further consultations before the nominees are appointed.

The issue of remuneration of members of this Commission may appear to be straightforward, but I have a problem with the Minister being the only person they consult before they set up their salaries. We have commissions that are overspending and the only time Parliament gets to know about it is when their accounts are brought here. We know that the Minister is a very busy person. What happens if he does not scrutinise the proposals properly? I would be happier if this is done in consultation with the Treasury and the approval of this House. Matters of remuneration are a burden to the taxpayers and we need to subject them to further scrutiny. All in all, the intentions of the proposed legislation are noble, but as I have said before, I would be happier if we were to expand this Commission so that it deals with issues of discrimination and it takes on board, issues of disability.

We have to watch whether we are going to set up too many bodies that may have problems in relating. We have just passed the Kenya National Commission on Human Rights Bill. Now, we are discussing the National Commission on Gender and Development Bill. When the Equality Bill comes to the House, we shall be discussing the equality board, and when the Disabilities Bill comes here, we shall be talking about the disabilities board. Is there a way of integrating all these concerns? What we are dealing with here are human rights issues in all these Bills. Can we not have one composite commission which deals with these issues so that we can co-ordinate our act better?

Mr. Deputy Speaker, Sir, we also need to add to the mandate of the Commission, not just matters relating to development but also as part of development, issues relating to decision-making, which I have not seen put on board in Clause 6 which deals with the mandate of the Commission. I propose that Clause 6 (2)(d) should include at the end, the word "decision and in decision-making" so that the Commission does not only formulate programmes and advise on the establishment and strengthening of institutional mechanisms which promote gender equity and equality in all spheres of life; and in particular in education, employment, access to national resources and in decision-making. We have decision-making processes which are not necessarily elective. We have the District Development Committees, the District Environment Committee and many other committees that have been established through legislation. If we were to add decision-making under this clause, it will mean that we will need to look at the issue of gender and the balance of gender in those committees.

Mr. Deputy Speaker, Sir, I urge the Attorney-General to look at the numbers of the people appointed to the Commission. It is not enough to say that of the eight members, four will be women. Since this is a gender Commission, let the 12 members, including those from the Ministries like the Permanent Secretaries, be nominated on the basis of gender, so that we have an equal gender representation in the Commission. If the members of the Commission are 12, let six be women, and six be men. Although we do not have an equal number of men and women Permanent Secretaries, it will be the duty of the Government to ensure that of the four Ministries bringing in Permanent Secretaries to the Commission, at least, two of the Permanent Secretaries will be women in those four key Ministries. So, it is not difficult to suggest that out of the 12 members of the Commission, six must be women. How are we going to promote gender equity and equality if we are not going to practise it in the formulation of the Commission? Let us rethink those structural issues which we have pointed out in this Bill so that we can lead by example. We should not be seen as practising tokenism. The Bill is well intentioned and we will assist the Attorney-General in making concrete suggestions on the necessary amendments, and also suggestions on ways to expand the Commission to cater not only for gender but also issues of disability; and to generally look into issues of equality and elimination of laws that are discriminatory not just to women, but to any section of the society.

With those remarks, I beg to support.

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Deputy Speaker,

Sir, for giving me this opportunity to contribute on this Bill, which I support.

When we talk about matters relating to gender, we should talk about both men and women. Where, therefore, I see any wording in the Bill relating to women alone, I find that discriminatory. There are instances in this Bill where the emphasis is on women rather than on men, and I wonder whether the intentions of the Bill are well carried out in such situations. I will give a typical example. On page 197 of the Bill, Clause 6(2)(g) states:

"--- evaluate aid policies to determine their impact on women in Kenya".

I have no problems with that. I have no problem at all in stating what the Bill has stated, but I have a problem with the emphasis which has been given to women. Somebody may say that you should see it immediately for yourself. But I would like to see it appreciated that issues which relate to women also relate to men. I think the drafting of the Bill there is a little bit lopsided. I wish the Attorney-General could look into that issue. I have no problem with the emphasis being put on women, but what about men?

Having said that, I would like to support the idea of the consolidation of all these commissions that have related interests. We have passed a Bill in this House for the formation of a National Commission on Human Rights, and another Bill which relates to people with disabilities has already been published. If I heard the Attorney-General correctly, there is a Bill which has been published which relates to people with disabilities. There is also the Children Act, which relates to the youth. We are again scattering duties and responsibilities for related affairs to a whole host of institutions which will make it impossible to appropriately co-ordinate their discharge and obtain the results that we want to obtain. I therefore would like to appeal to the Attorney-General that after we pass this Bill, he should look into all these institutions that have been given a legal mandate by this Parliament with a view to having some measure of consolidation, so that the responsibilities and duties can all come under one roof and can, therefore, be appropriately and properly managed. Having said this, I hope that this is the last we will see of gender issues. Somebody whispered to me that he hoped that we would not see a men's Bill in this House at some stage. That will be most unfortunate because I would like to think that this Bill covers both men and women.

Coming to the Bill itself, it has stated that the headquarters of the proposed Commission shall be in Nairobi. I do not have a problem with the proposed Commission's headquarters being in Nairobi, but I am worried that everything is being centred in Nairobi and the provinces are left out. What will happen, especially during this time when we are headed for *majimbo*? There is no provision in this Bill to cater for provincial offices. In my view, there ought to be a provision for the establishment of provincial offices that will cater for gender issues. I have no problem with the headquarters of the proposed Commission being in Nairobi, but there should also be provincial offices. I appreciate that this exercise will be very expensive, but I think that when we set ourselves to provide services, we must provide them equitably throughout the Republic rather than concentrate them in one area.

Also, when it comes to the issue of who should be appointed to the proposed Commission, I know that traditionally, we have included Permanent Secretaries in the membership of many bodies. We have also proposed the appointment of men and women. I want to bring in the principle of equitable distribution of these positions throughout the Republic. All members of various bodies should not come from Nairobi. I would like to see some kind of provision in this Bill to the effect that the commissioners will be appointed from all over the Republic. We have eight provinces, and once again, I would like to see the distribution of services throughout the Republic. We should have commissioners coming from various areas rather than from one area or one ethnic grouping, which may very well be the case. I am opposed to this idea. We must, from now on, guard against such clustering of appointees to the Commission whose establishment we are discussing today.

I am not in any way pre-empting a *majimbo* Government in future, but I think that it is important to take note of the fact that this provision of services must be enjoyed by everyone in every corner of the Republic. In the same vein, I find that on page 197 of the Bill, the functions of the Commission include the co-ordination and the facilitation of gender mainstreaming and advising the Government. Who will oversee the implementation of the intentions of the proposed Commission? If, as I presume, it is the Government which will oversee the implementation of the intentions of the proposed Commission, what will happen if implementation of the mainstreaming is not achieved? What recourse will be there for the intended beneficiaries of the implementation? I find that this Bill lacks some measure of the implementation aspect and what should be done if the mainstreaming is not facilitated or not achieved.

Mr. Deputy Speaker, Sir, having said that, I want to say that this is a short Bill. The powers of the proposed Commission, as stated on page 198 of the Bill by Clause 7, are to control, supervise and administer the assets of the Commission in such manner and for such purposes--- I have no problem with that. The proposed Commission can also receive grants and it will have a bank account. The proposed Commission will need also to prepare a budget. I have no problem with that, but there must be a synchronization between the preparation of the commission's budget and the preparation of the Budget of the Government so that its budget is not left out of the national Budget. It is not clear here where the financial year should end. The Financial year shall be 12 months, ending on 30th June of every year. Well, what is important is that the Government Budget is drawn around January, February to March. It is important that is an

administrative matter. I hope the Commissioners will take cognizant of that aspect so that they are not left out in the Government Budget.

Otherwise, I support this Bill. Like Ms. Karua said, gender equity means that, if there are 12 Commissioners, we should then have trade match; six to six. I will go along with that and it is something that I would like to see effected and implemented. Whether that is practicable in the present day Kenya, it leaves a lot to be desired because the practicability of it may not necessarily be possible. I would like to alert the Attorney-General, I only wish he was listening. It would be useful if the Attorney-General listened to our comments.

Mr. Deputy Speaker: It would be useful if all hon. Members in the Chamber listened!

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you very much, Mr. Deputy Speaker, Sir. Yes, I was on the point of mainstreaming gender equity. If we have 12 Commissioners, I take it to mean that we have six men and six women. I wonder though whether that intention is clearly carried out in this Bill. If it is not, how then do we expect to get that gender equity? I would like the Attorney-General to respond to this question. How then do we achieve the balance? I would appreciate that clarification, when he comes to respond, otherwise, the objective of this Bill will not be achieved, in my view, if we do not have six men and six women. That is my understanding and, perhaps, he can correct me. Otherwise, we are moving in the right direction.

With those remarks, I beg to support.

Mrs. Sinyo: Mr. Deputy Speaker, Sir, I rise to support the Bill. My entry point is on the premise that unless this House, from the onset, appreciates the disparity that has existed since Independence between men and women of Kenya, it would not augur very well, even to continue having this debate, if we as hon. Members do not appreciate that disparity. So, from the word go, I would want to appeal to hon. Members to appreciate that the National Commission on Gender and Development Bill is being discussed deliberately to alleviate a situation which in the eyes of the Attorney-General, the members of the task force whom he had put in place, and now this august House and the public at large, will see that there is need to have an institution in place which would come up with a mechanism of alleviating the disparity between men and women, boys and girls of Kenya.

Mr. Deputy Speaker, Sir, on the same premise, I rise also to question one assumption floated on the Floor here, by an hon. Member who contributed just before me. The assumption that we should have equal representation of provinces, if we were to have commissioners from the eight provinces; one should be from each province so as to bring in equitable distribution of provinces in the Commission. I am left a jar, if we would abase to such an noble Bill to the extent of thinking of going to provinces, how much more would I not rise to say, I would want the initial 42 tribes of Kenya to be represented, if not the 78 districts to be represented because this cuts across all men and women of Kenya and the trivial differences need not arise on this Floor. If any thing, we need to support this Bill to take effect immediately, because it is long overdue.

Mr. Deputy Speaker, Sir, this Bill as properly stated, is tabled in this House for equalization of opportunities for both men and women of Kenya, irrespective of province, tribe, disability, ability, poverty, wealth, *et cetera*. Status does not arise in this case. It is one Bill that is not biased or prejudiced. So, when we are discussing this Bill, I want once again to appeal to the House that we should see what is the end result; what is the concrete intention of this Bill? What impact would this Bill bring to the nation when it is implemented?

As Kenyans, we have the euphoria of always being critics. We are left behind in the East African Region. Many pertinent issues are raised, and when they are in Kenya, you find that we just cannot conform even with the international perspectives. We are always left behind thinking that we are an island of peace, *et cetera*. But when it comes to development, and when we come into the nitty-gritty details of trying to see the growth and development of a nation, by the level of how the poorest of the poor, the marginalized and the women, are brought into the public arena, we always remain last in the East Africa a region, and in Africa as a continent. We do not give pertinent issues the seriousness they deserve, we bring them in any forum and we trivialize them. So, I really find it very sad that we still do not give the National Commission on Gender and Development Bill some considerable weight.

Mr. Deputy Speaker, Sir, I would like to concur with a notion that the last speaker alluded to. But, apparently, at the end of the day, with the good intention of the Attorney-General, even after having the Human Rights Bill passed, and we are going to have a Human Rights Commission with seven Commissioners in place--- At the end of the day, we are going to have so many commissions, and our resources would also impede the effectiveness of this Commission.

That fact notwithstanding, I rise to say that the National Commission on Gender and Development Bill, which is being discussed on the Floor of this House, has the chance to bring on board other commissions that need to be put in place. I know other countries have the Human Rights Commission and then they have the Equality Commission, which cuts across all commissions of which the Human Rights Commission will be the overseer; the ombudsman. So, there are mainly two main Commissions in place in relation to human rights and development issues. That would be a good approach. That will be a good approach. Since we have this Bill before the House, we should capitalise on this

opportunity to amend it to bring on board all the other aspects of human rights which we need to consider. But that does not mean that Bills, like the one relating to people with disabilities, should not be tabled in this House and discussed. If we rush into consolidating issues, we shall deprive those who have already been deprived. If we rush gender issues and say that let us consolidate them, we will deny sections of our society, like people with disabilities, an opportunity of airing their problems. If we had left these people to air their problems, people would have understood their plight since Independence.

Mr. Deputy Speaker, Sir, the hon. Attorney-General made an appeal in this House and I really commend him for doing that publicly. This is because if there is any issue that is at stake for each and every hon. Member of Parliament, the Chair included, it is the Disability Bill. This Bill is an insurance to each and every adult. All of us are heading up to disability. It is only when this Bill is in place that you are assured that you will benefit from using a white cane when you fall blind. You will also benefit from using a wheelchair without using your retirement pension which you did not expect to spend on a wheelchair. This is a noble Bill which I would like us, when it is brought to this House, to give it the seriousness it deserves. The aspect of consolidating human rights and equalisation of opportunities in the Bill which is on the Floor should also be taken seriously.

I would also like to concede to the fact that the Mover of the Motion was quite elaborate, but it was more or less bent towards propagating the plight of women. I think, in all fairness, I would like in this 21st Century, Kenyans and this House in particular, to be more focused, mature and realise that gender is not synonymous to women. I would like to point out that gender relates to both men and women. It is sad that women have had to exhaust all their energies forming women groups to create awareness that they are around and are here with us; it is sad that Members of Parliament have encouraged these women groups to operate by giving them meagre donations.

[Mr. Deputy Speaker left the Chair]

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

In this century, we will say that if they will have any groups in place to build our society, then they have to be composed of men and women. We will not leave women to toil after doing the domestic chores for 12 hours; they still have to find time for women groups and work in the house at night. We will reduce the life span of women. So, I would like to educate the House that the National Commission on Gender and Development Bill has the intention of creating and increasing awareness on the existence of the roles of men and women and equal opportunity in decision-making and representation.

I will not rise here and commend the Government because there are four women Permanent Secretaries. How many men Permanent Secretaries are there? How many women have been appointed Permanent Secretary, Secretary to the Cabinet and Head of the Public Service? Now that we have had one for the last one year, it has become a song. You will not deny the fact by calling a spade a spoon. You have to call it an agricultural tool. We are saying that there has been that disparity in development, and this Bill will ensure that the Government is committed to doing something; the community, at large, is committed to bringing a change; this House is committed to having more representation of both men and women in the House. It is a matter of waking up, as Kenyans.

Our neighbours, Tanzania and Uganda, whom for a long time we have boasted to be ahead of-- We have said in other quarters that we are the "England" of Africa or East Africa because of progress in various fields. If we were to be frank, these two countries are advanced on gender issues or affirmative action, for that matter. If you come to this House, you will find that our male dominant hon. Members do not want to hear anything about affirmative action. They dismiss it and refer it to the Constitutional Review Process. They are so shy and they cannot face facts. See what Tanzania has done, and what Uganda is doing. We forget the fact that affirmative measure is only temporary. When the situation has been corrected on the ground and people are at par, we move on from there. This is the essence of the National Commission on Gender and Development Bill.

Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill, subject to numerous amendments and consolidation on human rights development aspects. I would also like to appeal that all the other sectors which champion the cause of human rights globally-- This is the order of the day. No sector should be left out in bringing a Motion or a Bill in this House, simply because there will be equalization of opportunity or an equality Bill. This should not be the case. It is only by speaking out your plight that people will share it and change. If we do not change with the wind of change, circumstances will force us to change.

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

Mr. Mbitiru: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance, once again, to support this very noble Bill. So much has been said about gender and this Bill talks about gender and development. I

would like to spend a few minutes to look at the issues that have affected development.

This Government has formed so many commissions, and to me, it appears as if the Government wants to govern Kenya through commissions. It is like the Government does not understand the relevant departments within the Ministries, which are supposed to handle particular issues, be it human rights, gender issues and disability. We know that in the Government, there are departments which are clearly mandated to deal with those issues. But more so, the Government wants to pass that over to the commissions and, as a result, depleting the meagre resources that this country has.

On gender issues in this country, the disparity that exists between men and women is so big and glaring, and it has favoured men than women. We have children, both boys and girls, and at no one particular time in my house, have I expected to have more respect or resources extended to my boys than my girls. I expect that all of us will distribute our resources equitably. In this case, all Kenyans are equal in the eyes of the Government. We should extend equal opportunities to both girls and boys in schools and even in places of work, because I believe that there are many women who are more educated than men. These women can discharge responsibilities better. More so, it is known that women are not corruption-prone. I believe that they can run most of these institutions which are currently a den of corruption.

I would like to talk more about development because of provision of shelter. If you happen to visit the slums in this country, you will find that the majority of the people who suffer there are mainly women; the single mothers. The second aspect is water. If you visit our constituencies, you will realise that women spend three to four hours fetching water and firewood.

Mr. Temporary Deputy Speaker, Sir, immediately we attained Independence, the Government of Kenya promised to provide clean water to every household by the year 2000. What is happening today? Most of the taps that were put in place those days are dry today. Some have been vandalised. We do not have clean water in the country. Even the water in Nairobi is no longer clean and consumable. This country depends on companies that sell mineral water. This Government has failed in the provision of clean water to its citizens.

Mr. Temporary Deputy Speaker, Sir, when we are talking about development, it is good for us to be focused. What do we mean by development? How does gender relate to development in this country? If we were to look at the rural sectors, the CBOs, the community organisations and NGOs that are working there, mainly focus their attention, as the Attorney-General said, on women. Why? I think women are more responsible and they react so fast when it comes to certain development. For instance, there is an NGO in my constituency that deals with the building of water tanks. So many *Harambees* that I have attended and which were organised by women groups are to build tanks. Even if men contribute a few shillings here and there, the initiative is not theirs. So, it is a pity the Commission will be comprised of four women and eight men. I think this is a misdirection.

Personally, I believe the ratio of women to men in the composition of this Commission should be 8:4. This is because if we are to address development in the rural sector, we must look at the person who bears the burden. Who feels the pinch? Is it the man or the woman? Who is faced with the burden of fetching water? Is it the man or the woman? I believe it is the woman. That is why they come together as a group and put up CBOs. Even hon. Members in this House will agree with me that we put our resources into those CBOs so that we assist women in their endeavour to develop the rural sector.

Mr. Temporary Deputy Speaker, Sir, I hope the Minister for Finance, in the Finance Bill, will look at the informal sector. Most of the people who have been retrenched by the Government have today resorted to the informal sector. They have set up small businesses, but there is no financial support from the Government. If you look at Gikomba Market, for instance, who are the majority? How does the Government assist that lot? When you go to slums, those people who have set up small enterprises like selling of *mitumba*, *sukumawiki*, potatoes and tomatoes cannot afford big capital to put up big businesses. However, this Government does not support this sector. This sector is very important to this country. There is no sector, which employs so many people like the informal sector which includes the *jua kali* sector. When we talk about rural development, I would urge the Commission to think of how they can empower people in the informal sector because it is the only guarantee we have that Kenya can move forward. What was provided for through the formal sector as employment is no longer there. People are being retrenched both in the Government and private companies.

Mr. Temporary Deputy Speaker, if we want to enhance shelter, develop water systems and assist those people who are working in the informal sector, then the Government, through this Commission, must set up a fund that will support small enterprises in this sector.

Mr. Temporary Deputy Speaker, Sir, finally, it is important for us to realise that this country is really going down. When you walk on the streets of Nairobi, you will see so many street children and women, and even entire families. Why is this so? These people have no source of income. I hope the Commission will look into the question of why there is a mushrooming of street children and women. These people need to be taken care of so that we can

start addressing the issue of developing our nation. We cannot develop when so many of our brothers are loitering in the streets without any means of livelihood and shelter. It is wrong. This Commission should emphasise the issue of development. I believe this development will bring more equality in the distribution of resources that will be set aside by the Government.

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

Mrs. Sinyo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Will I be in order to call upon the Mover to reply?

The Temporary Deputy Speaker (Mr. Imanyara): Actually, Mrs. Sinyo, that is not necessary because nobody else wants to speak. So, I will ask him to reply.

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

First of all, let me thank all hon. Members of Parliament, beginning with my Seconder, Mr. Osundwa, Ms. Karua, Mr. Keah, Mrs. Sinyo and Mr. Mbitiru for their positive contributions. As they have stated, this is about gender equity between men and women. Of course, we must recognise that women have been disadvantaged and it is only through that recognition that we can put everybody on an equal footing and see what it takes to do that. There was an argument about "equity" and "equality". I know that if you use the word "equality" it is better to follow it with "equity" because "equity" embraces "equality"! I have got the Oxford English Dictionary to support my stand.

Mr. Temporary Deputy Speaker, Sir, we shall look at the views that have been expressed here and where appropriate, the amendments will come during the Committee Stage.

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

(Question put and agreed to)

(The Bill was read a Second Time and Committed to a Committee of the whole House tomorrow)

The Temporary Deputy Speaker (Mr. Imanyara): Next Order!

Second Reading

THE PETROLEUM BILL

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Mudavadi, where is the Minister for Energy?

The Minister for Transport and Communication (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I do not think the Minister is available to move that particular Bill. So, you can defer it?

Mr. Kitonga: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it not necessary for us to be informed why the Minister is not available to move the Bill?

The Temporary Deputy Speaker (Mr. Imanyara): Next Order!

(Second Reading deferred)

QUORUM

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, you are right. We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Order! Hon. Members, it does appear that we will not be able to raise the necessary quorum so we will have to interrupt our proceedings. The House is, therefore, adjourned until tomorrow, Thursday, 13th June, 2002, at 2.30 p.m.

The House rose at 5.40 p.m.