

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd May, 2002

The House met at 2.30 p.m

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.164

AWARD OF KAA TENDER

Eng. Muriuki asked the Minister of State, Office of the President:-

- (a) whether he could inform the House who was awarded the tender Reference No.KAA/ES/JKIA/412/C advertised by Kenya Airports Authority, in the year 2000; and,
- (b) what the contract sum was and whether the contract was executed.

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

(a) The tender Reference No.KAA/ES/JKIA/412/C for the supply of runway rubber remover equipment and removal of rubber deposits from the runway at JKIA was awarded to M/s Adra (K) Limited of P.O. Box 40583, Nairobi, who submitted the best evaluated tender.

(b) The contract was awarded at Stg.£971,649.05 which was inclusive of VAT at 18 per cent and 10 per cent contingency to be expended in the whole year, or in part as directed by the Chief Executive.

The contract has been successfully completed.

Eng. Muriuki: Mr. Deputy Speaker, Sir, the answer given by the hon. Assistant Minister is very unsatisfactory. The contract, as he says, was for the removal of rubber on the runway at JKIA. However, the rubber has not been removed. The machine which was to be supplied for removing the rubber in subsequent years has not been supplied. The equipment for measuring the rubber has not been supplied. So, could the Assistant Minister confirm that the machines are there, so that the Departmental Committee on Energy, Communications and Public Works can go and inspect them?

Mr. Samoei: Mr. Deputy Speaker, Sir, this contract has been done to the satisfaction of the Kenya Airports Authority. The subsequent machines that were supposed to be supplied for removal of the rubber subsequently are within the time limit for delivery. They may not be necessarily at the JKIA, but they are within the time limit for their delivery.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, could the Assistant Minister lay on the Table the terms of the contract so that we may know whether or not they have been met?

Mr. Samoei: Mr. Deputy Speaker, Sir, I do not have the details of this contract. However, I do wish to invite the Members of the Energy, Communications and Public Works Committee to visit the Airport and verify the facts for themselves.

Eng. Muriuki: Mr. Deputy Speaker, Sir, I will take the challenge that the Committee visit the Airport. However, is the Assistant Minister aware that on 1st November, 2001, due to the presence of rubber which had not been removed, a Kenya Airways plane, on landing, veered off the runway with 48 people on board? Although none of them was injured, there was heavy damage to that aircraft because the rubber is still there and the runway is still very slippery and dangerous. We could have another accident any time.

Mr. Samoei: Mr. Deputy Speaker, Sir, I do admit that there was an accident as stated by the hon. Member. However, it was not just because of the status of the runway. There were other issues that were raised then. However, this rubber removing exercise is a continuous process and that is why, in the contract, there was included equipment that would be used subsequently to remove the rubber deposits so that they do not exceed levels that become dangerous to the users of the Airport.

Mr. Anyona: Mr. Deputy Speaker, Sir, the matter is now before the House and, therefore, it is the property of

the House. It is very kind of the Assistant Minister to invite the Committee to go and verify, but this means the matter has not been swered really. Could the Assistant Minister, having invited the Committee to verify the facts, undertake to come back to the House and brief Members so that the matter is concluded?

Mr. Samoei: Mr. Deputy Speaker, Sir, in fact, Eng. Muriuki asked me whether the Committee can go and verify the facts and I was just replying to that. Indeed, they can go and verify, if they find my answer not satisfactory. I still want to take the challenge of Mr. Anyona that I will come back to this House even after the Committee has inspected the equipment.

Eng. Muriuki: Mr. Deputy Speaker, Sir, as requested by the hon. Member, maybe, with the indulgence of the Chair, could we give this Question a chance to be brought again so that the Assistant Minister can lay on the Table the terms of that contract? The bulk of the contract, which amounted to about Kshs50 million, was to supply those machines for the removal of the rubber. We need to know whether or not they were included in this contract. Certainly, those machines are not at the JKIA.

Mr. Samoei: Mr. Deputy Speaker, Sir, I think the hon. Member is really taking the House for a ride. Eng. Muriuki does not keep the inventory of what machines are at the Kenya Airports Authority's yard. I want to challenge him to tell us how he is aware those equipment are not there. I think I have answered the Question.

Eng. Muriuki: Mr. Deputy Speaker, Sir, I was asking for the indulgence of the Chair to defer this Question for one or two more working days in Parliament so that the hon. Assistant Minister can lay on the Table the terms of the contract as requested by Mr. Angwenyi. Consequently, when we visit the JKIA we can know what this contract was all about as advertised in the newspapers.

Mr. Deputy Speaker: Eng. Muriuki, you have already asked that the Committee visit JKIA. You can see not only what you asked for, but anything and everything that you consider pertinent to this project. So, really whether the Question will be asked or not is not your concern. I think the best option is for you to visit the airport and look at anything and everything. If you feel unsatisfied, come back to the House.

Next Question.

Question No.251

RELOCATION OF ARMY CAMP

Mr. Deputy Speaker: Is Mr. Weyrah not here? We will leave the Question until the end. Let us move on to the next Question.

Question No.183

CLOSURE OF RETIREMENT BENEFITS SCHEMES

Mr. Kariuki asked the Minister for Finance:-

- (a) whether he is aware that according to the Association of Kenya Insurers, 300 small retirement benefits schemes have opted to close down as a result of the introduction of Retirement Benefits Act; and,
- (b) what he is doing to ensure that employees who would have benefited from these small pension schemes are not adversely affected.

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

(a) I am not aware that 300 small retirement benefits schemes have opted to close down as a result of the introduction of the Retirement Benefits Act. I am, however, aware that 71 schemes that have invested in insurance companies have applied to the Retirement Benefits Authority to wind up for the following reasons:-

Twenty schemes have applied to wind up following the winding up of sponsor companies. The winding up of sponsoring companies is not related to the Retirement Benefits Act, but is a result of the normal entry and exit of business in any competitive market place.

Mr. Deputy Speaker, Sir, thirteen schemes have applied to wind up following the declaration of redundancy or retrenchment of a majority of the members by the sponsors or employers, thus leaving too small a number of members in the scheme.

Mr. Deputy Speaker, Sir, fourteen other schemes which have proved to be financially non-viable have also converted from occupational retirement benefit schemes into individual retirement benefits schemes, under the advice of the Retirement Benefits Authority.

Also, two more schemes have applied to wind up as a result of their funds held under the Kenya National Assurance Company Limited - in liquidation.

Mr. Deputy Speaker, Sir, two more schemes have also applied to wind up following the schemes merger with other related schemes operated by the same sponsor.

Fourteen schemes applied to wind up after the members panicked following widespread propagation of a rumour that the Retirement Benefits Act provided for locking in of benefits until one attained 50 years. This rumour which was proved to be incorrect was spread by vested interests who had been abusing the pension funds for many years and were opposed to the introduction of any form of regulation in the pension industry.

Five schemes opted to wind up due to misconception amongst some employers, that compliance with the Act would lead to a large increase in costs to the schemes. The Retirement Benefits Act requires schemes to use professional service providers to invest and manage the schemes' assets. This requirement is in line with international best practice which has demonstrated that the benefits of professional management in terms of enhanced investments return and increased security of members' benefits, far outweigh any perceived increase in costs.

Mr. Deputy Speaker, Sir, out of the 71 applications for winding up, the Retirement Benefits Authority has to date, only granted approval to five schemes to wind up.

(b) The Government is taking the following measures to ensure that employees who would have benefited from the small pension schemes are not affected adversely:-

No scheme can be wound up without prior approval of the Retirement Benefits Authority, which will ensure that members' accrued benefits are secured.

The Authority will endeavour to ensure that any scheme that winds up, for whatever reason, is converted from an occupational scheme---

Mr. Wamae: On a point of order, Mr. Deputy Speaker, Sir. Is that answer not too long? The Assistant Minister has been answering this Question for nearly a half an hour!

Mr. Deputy Speaker: Order! Why do you not first look at the Question and see what it demands of the Assistant Minister? It is not just a matter of the Assistant Minister giving a long reply, but it is the Questioner demanding that answer.

Proceed!

The Assistant Minister for Finance and Planning (Mr. Lomada): Thank you, Mr. Deputy Speaker, Sir, for protecting me, because this is actually the answer to the Question. I hope the hon. Member will listen so that he gets the reply properly.

The Government is educating employers to dispel misconceptions with regard to the Retirement Benefits Act, and to illustrate that the benefits of compliance with the Act far outweigh any perceived increase in costs.

The Retirement Benefits Authority is carrying out a public education campaign to educate all Kenyans about the importance and available means of saving for retirement. The Government continues to provide generous tax incentives for retirement benefits schemes through income tax exemption for contribution and investment income.

Mr. Kariuki: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that lengthy answer. However, could the Assistant Minister explain why the National Social Security Fund, which is one of the managers of the Retirement Benefits Fund was exempted from this Act, and yet this Act came into being because of the mismanagement of funds entrusted to the NSSF?

Mr. Lomada: Mr. Deputy Speaker, Sir, the NSSF has a long-term plan to be registered like other bodies. Therefore, it is up to 2003 that the the NSSF will be included.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I believe the Assistant Minister knows that the NSSF has destroyed the lives of more than three million Kenyans, and that the Retirement Benefits Act was instituted because of the NSSF's mismanagement of public funds. Could the Assistant Minister confirm to this House that the Ministry of Finance and Planning will be able to control and manage the NSSF so that public money is not misused?

Mr. Lomada: Mr. Deputy Speaker, Sir, first of all, I am not aware that the National Social Security Fund (NSSF) has misused its contributors' money. What I can only assure the House is that, my Ministry will look into the matter with the aim of rectifying all the mistakes that the NSSF has made. But there is no question of the NSSF having embezzled money from its members.

Mr. Deputy Speaker: Mr. Assistant Minister, you are a Member of this House. The Public Accounts Committee reports have, year in, year out, reported misappropriation and mis-allocation of funds by the NSSF. So, really, do not say that you are not aware because that is a matter of public record in this House. But you do not have to answer to that.

Mr. Keriri: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House why the Ministry of Finance and Planning required up to five years for the NSSF to join the Retirement Benefits Authority (RBA)? Why

was that necessary, when we know that the NSSF has been mismanaged for so many years? The Assistant Minister is telling us that he is waiting until the year 2003 to have the NSSF become part of the RBA. Are those years intended to facilitate more looting of the NSSF?

Mr. Lomada: Mr. Deputy Speaker, Sir, the NSSF is not a small organisation. It is a very important organisation and, therefore, it has a plan of its own transition, which says the transition will not be ready until the year 2003. We cannot hurry it up. It has to go through that transition until it is properly managed and able to join the RBA.

Mr. Kibaki: Mr. Deputy Speaker, Sir, this matter is very important because it affects hundreds of thousands of workers. As you know, the NSSF has no money to pay retired people today. They are all being given letters advising them to go home and wait. As you know, there is nothing that the NSSF contributors can wait for, because the money belonging to the organisation, and which was banked at the National Bank of Kenya (NBK), has been turned into shares. There is no money available there. Now, the NSSF has a certificate showing that it is a shareholder of the NBK. Therefore, it has no cash. Could the Assistant Minister tell us what the NSSF is going to transfer to the RBA when it has no money? Will it show that particular piece of paper? What is it going to show in that exercise? When are they going to begin paying retired people?

Mr. Lomada: Mr. Deputy Speaker, Sir, my Ministry is not aware that the NSSF has no money of its own. Whatever contributions the members make go to the NSSF. If they keep the money in the bank, it is like any other organisation. Therefore, the question that members are not being paid their money does not arise. Therefore, we are not aware of that allegation!

Mr. Michuki: Mr. Deputy Speaker, Sir, the purpose of the Act in question was to separate management of funds from institutions that are custodians of those schemes. Now, in this particular case, the very Minister who is in charge of this Act has exempted one of the most looted schemes in the world! We have seen money from the NSSF being taken out through exchange of plots, so that the NSSF now has land and shares like the Leader of the Official Opposition has said here. It has no money to be managed by a manager. Therefore, it remains a custodian and also manages itself. Is that not against the spirit of the law? Why is the Minister taking this House for a ride, requiring us to pass an Act of Parliament, out of which he then exempts himself and gets free? When is the Minister going to rectify that position?

Mr. Lomada: Mr. Deputy Speaker, Sir, I am not aware of the fact that the hon. Member is alleging; that, the NSSF has taken out money meant for the members and used it for its own purposes. What I know is that the NSSF is there to guard the members' money. No member has not been paid his benefits and, therefore, we are going to rectify the situation. If there is anything, my Ministry is going to rectify the situation as soon as possible.

Mr. Kariuki: Mr. Deputy Speaker, Sir, you have heard the unsatisfactory answer given by the Assistant Minister to this Question. He is not aware of anything! Could he be given time to be aware of some of the facts because they are so serious and affect this nation? Maybe, he will be better educated by the time he comes back with a better answer to this Question.

Mr. Deputy Speaker: I do not see the connection between the time he requires and his ability to answer the Question!

Mr. Kariuki: Mr. Deputy Speaker, Sir, maybe, time will help him to be aware of some of those facts! That is because he is limited as far as time is concerned!

But having said that, is the Assistant Minister aware that the Act seems to be very retrogressive and punitive in the sense that it is killing the small pension schemes which should be benefiting the small people, because of very high and exorbitant cost of managing them through fund managers and custodians who are very expensive? Could the Assistant Minister look into the possibility of bringing down those costs? Why should we pay professionals who are not doing anything but just merely sitting on employees' funds? They are not doing anything at all and there is no value added to the work that they are doing. The Assistant Minister should, through you, Mr. Deputy Speaker, help to alleviate the problems that the small employees are facing as a result of pulling out from those pension firms.

Mr. Lomada: Mr. Deputy Speaker, Sir, as I said before, there were certain cases where some of the beneficiaries panicked because of rumours. My Ministry will look into that with the aim of solving the problems once and for all, as the hon. Member has said. Otherwise, I know that the hon. Member is a member of the Board of UAP Insurance Company. Therefore, he could be having some information.

Mr. Kariuki: Mr. Deputy Speaker, Sir, what interest could I have in whatever is going on? Could he withdraw those remarks because they are personal, and I have nothing personal about this Question? If anything, I am talking about the public that is suffering!

Mr. Deputy Speaker: Mr. Assistant Minister, I think the point the hon. Member is trying to make is that pension schemes may not necessarily be big. He, himself, can set up a pension scheme for himself. How do you compare the benefits that he will get against the charges that are imposed by the Act, by requiring every pension fund

to go to a manager?

Mr. Lomada: Mr. Deputy Speaker, Sir, anyway, that was by the way! As I have stated here, my Ministry will look into that case very closely, with the aim of solving those problems, so that beneficiaries could continue to enjoy their benefits.

Mr. Deputy Speaker: Next Question by hon. Mrs. Mugo!

Question No.219

SHORTAGE OF TEACHERS IN PUBLIC SCHOOLS

Mrs. Mugo asked the Minister for Education:-

(a) whether he is aware of an acute shortage of teachers in Dagoretti public schools; and,

(b) what he is doing to ensure that the schools are adequately staffed.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any shortage of teachers in Dagoretti public schools as there are 22 primary schools with an over-establishment of six teachers and eight secondary schools with an over-establishment of one teacher.

(b) The Ministry is, however, carrying out a staff balancing exercise of teachers in Nairobi Province so that teachers in Dagoretti schools can be evenly distributed.

Mrs. Mugo: Mr. Deputy Speaker, Sir, I would like to draw the attention of the Assistant Minister to the fact that Dagoretti has 17,480 pupils with 436 teachers with a shortage of 50 teachers. The worst-hit schools are Dagoretti Approved School which has a shortage of nine teachers and Kawangware Primary School which has a shortage of eight teachers giving a ratio of one teacher to 51 pupils. It is quite clear, from the above information, that the children in Dagoretti do not get adequate attention and that is the reason why they do not perform well in examinations while other schools are very well staffed. Does the Assistant Minister think that, that is not a shortage of teachers and I believe he is a teacher by profession?

Mr. Karauri: Mr. Deputy Speaker, Sir, what may be happening here is that there are a few schools which are over-staffed by two or three teachers while others are under-staffed by the same number. We have told the Provincial Director of Education to rectify that situation, otherwise, the rest of the schools in the constituency are over-staffed.

Mr. Ngure: Mr. Deputy Speaker, Sir, whereas I do not want to appear like a "Question scavenger", I am pained to ask the Assistant Minister to look into the shortage of teachers all over the country because Bondo District alone, which has 242 primary schools, has a shortage of 998 teachers representing 50 per cent of these schools. Could the Assistant Minister tell us why there is no replacement of teachers who have either retired or died?

Mr. Karauri: Mr. Deputy Speaker, Sir, I acknowledge that there is a shortage of teachers all over the country, but not in Nairobi Province which is normally over-staffed. In other areas, the Ministry is trying to persuade Treasury to give money for employment of teachers to replace those who may either have died or retired.

Mr. Sifuna: Mr. Deputy Speaker, Sir, arising from the Assistant Minister's reply, and in view of the fact that we have so many trained graduate teachers who are just sitting at home, what plans does the Ministry have to employ them in order to alleviate the existing teacher shortages in various primary schools and secondary schools countrywide?

Mr. Karauri: Mr. Deputy Speaker, Sir, I have already said that we are negotiating with the Treasury for funds to employ teachers to replace those who have either retired or died.

Mr. Mutahi: Mr. Deputy Speaker, Sir, I would like to know the Government's policy on the distribution of teachers. Most teachers are concentrated in urban areas. I raised a similar Question about Nyeri District and I was told that it has more teachers than it requires. However, the problem is that they are only concentrated in a certain area in that district and that is what the Assistant Minister calls over-staffing whereas the interior schools do not have teachers. What is the Government's policy on the distribution of teachers in urban centres?

Mr. Karauri: Mr. Deputy Speaker, as far as this Question is concerned, there is no "interior" or "exterior" areas because it applies to Dagoretti which is in Nairobi. However, that problem may exist in other constituencies and we are trying to address it.

Mr. Gitonga: Mr. Deputy Speaker, Sir, the hon. Member for Dagoretti has given two specific cases where there is a shortage of teachers. What is the Ministry doing about these two specific cases which are Dagoretti Approved School which has got a shortage of nine teachers and Kawangware Primary School which has a shortage of eight teachers?

Mr. Karauri: Mr. Deputy Speaker, Sir, Kawangware Primary School has a shortage of four teachers, but Dagoretti Special School has no shortage at all. I want to assure this House that before the end of this month, proper balancing of teachers will have been done in the constituency.

Mrs. Mugo: Mr. Deputy Speaker, Sir, no matter what the Assistant Minister says, I know Dagoretti has a big shortage of teachers and there has been an exodus of teachers moving from that area because they cannot access their schools because of the bad roads during the rainy season. They seek transfers and they are transferred. So, there is a great shortage of teachers there which the Assistant Minister may not be aware of. Could the Assistant Minister assure this House that he will bring back to this House a proper answer indicating that those teachers have really been brought back to these schools because they are not there? They might have been posted there, but they are not there. So, they are not there since I am from Dagoretti.

Mr. Karauri: Mr. Deputy Speaker, Sir, schools are opening on Monday and I have assured the House and the hon. Member that distribution will be done.

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

Question No.261

IMPLEMENTATION OF COLLECTIVE
BARGAINING AGREEMENT

Mr. Kuria asked the Minister for Labour:-

(a) whether he is aware that the Collective Bargaining Agreement (CBA) signed on 16th July, 1997 between the Pan African Paper Mills (EA) and the Kenya Union of Printing, Publishing, Paper Manufacturers and Allied Workers, has not been implemented to date;

(b) what action he has taken to ensure payment of 57 per cent increase as agreed upon by the parties; and,

(c) what further action he has taken to stop constant harassment of workers' leaders by the management.

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Deputy Speaker, Sir, I beg to reply.

(a) On the contrary, I am aware that the Collective Bargaining Agreement (CBA) between the Pan Africa Paper Mills (EA) and the Kenya Union of Printing, Publishing, Paper Manufacturers and Allied Workers (KUPRIPUPA) was implemented in 1997.

(b) The 57 per cent increase has been paid to the workers as agreed upon by both parties as stipulated below:

1.5.1995 - 10 per cent was paid as arrears for the period 1.5.95 to 30.4.96.

1.5.1996 - 47.8 per cent which was implemented with effect from 1.5.96 to date.

(c) I am not aware of any harassments. My officers have not received any complaints whatsoever. If there are any complaints, I would advise the complainants to register the complaints with my officers.

Mr. Kuria: Mr. Deputy Speaker, Sir, these employees have been harassed by their employer and, in accordance with the CBA, there was a 57 per cent increase but now the Assistant Minister is talking about 10 per cent to 47.8 per cent increase. Are these the percentage increases they had agreed on?

Mr. Chanzu: Mr. Deputy Speaker, Sir, in the first place, as I said, I am not aware of any harassment. But if there is any, I would like the complaints to be registered with my officers and that can be looked into. But, on the aspect of the agreement, negotiations started in 1995/96 and what has been agreed upon is what has been paid. In fact, the reason why the 10 per cent was paid in arrears is because it was later realised that the workers had received more than what was expected. It was based on the cost of living index, which at that particular time was about 28.3 per cent.

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister was specifically asked about the action he has taken to ensure that the 57 per cent pay rise has been paid as agreed. But he has brought up other issues of the cost of living and other figures. Could he be specific on whether the agreement talked of 57 per cent, or this 10 per cent that he is telling us now?

Mr. Chanzu: Mr. Deputy Speaker, Sir, the amount of money that has been paid is what was agreed upon in the Collective Bargaining Agreement (CBA).

Mr. Deputy Speaker: Next Question, Dr. Kituyi!

Question No.214

DISCRIMINATION IN BUYING CENTRES OPERATION

Mr. Deputy Speaker: Dr. Kituyi has had to attend to some other business urgently, and he had asked me to defer this Question and I agreed. I will defer it to Wednesday next week.

(Question deferred)

Next Question, Mr. Sifuna!

Question No.260

REPAIR OF BUNGOMA-MUMIAS ROAD

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

- (a) whether he is aware that the section of Bungoma-Mumias Road between Bungoma General Hospital and Bus Park up to Total Petrol Station is impassable due to too many potholes; and,
- (b) when he will repair this road.

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

(a) I am aware that the section of Bungoma-Mumias Road between Bungoma General Hospital and Bus Park up to Total Petrol Station is impassable due to too many potholes.

(b) The road shall be repaired as soon as funds are available. However, the work plan for the next financial year is in progress and we shall include it during the Estimates for the next financial year.

Mr. Sifuna: Mr. Deputy Speaker, Sir, this Question came up in this House in April last year and it was given the same answer. Could the Assistant Minister tell us how many financial years he requires in order to avail funds for this particular road? It is the same answer that he gave last year.

Eng. Rotich: Mr. Deputy Speaker, Sir, we promise to do this during the next financial year. We do not need another financial year.

Mr. Shitanda: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us how much money has been disbursed to the districts under the 24 per cent requirement of the Kenya Roads Board Act to take care of these kind of roads? We have so many roads which are impassable, especially the major roads which are supposed to be catered for by the 24 per cent.

Eng. Rotich: Mr. Deputy Speaker, Sir, I am sorry I do not have the figures now, but I can provide them.

Mr. Sifuna: Mr. Deputy Speaker, Sir, when this Question came up in April last year, it was before the start of the financial year and the Assistant Minister promised that they were going to include it in the next financial year. Now, we are heading to another financial year and the Assistant Minister is repeating the same answer. Could he tell us exactly the position on the ground rather than telling us that it will be done in the next financial year? Could he tell us exactly the true position when the Government will repair this particular road?

Eng. Rotich: Mr. Deputy Speaker, Sir, the true position is that we have included, in our proposals for the next financial year, this particular section of the road. That is true.

Mr. Deputy Speaker: Next Question, Mr. Ndicho!

Question No.247

EXPANSION OF THIKA SEWERAGE SYSTEM

Mr. Ndicho asked the Minister for Local Government:-

- (a) whether he is aware that the Thika Sewerage System was constructed before Independence when Thika population was 15,000 people as opposed to over 200,000 inhabitants currently;
- (b) whether he is further aware that due to the increase in population, the system is overloaded and occasionally bursts especially during the rainy season; and,
- (c) whether he could institute immediate remedial measures to expand the sewerage capacity.

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

(a) It is not entirely true that Thika Sewerage System was constructed before Independence as Phase II of the system was constructed in 1973. Both sewer lines were rehabilitated in 1988/89 period.

(b) Yes, I am aware that due to increase in population, the system is overloaded occasionally, especially during the rainy season.

(c) My Ministry, in consultation with the Municipal Council of Thika, commissioned consultants to prepare a sewerage master plan to cater for anticipated development in the Municipality up to the year 2023. The estimated cost of implementing the new sewer master plan is Kshs2.3 billion. This will require external funding as neither the Council nor the Government has the capacity to raise this kind of money at the moment. The Council is already in the process of shopping for some strategic partner to undertake the project.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Assistant Minister has answered what I did not ask him. He has admitted that Phase II of the sewerage system was constructed in 1973. I have asked him whether he is aware that already, because of the increase in population in Thika, the sewerage capacity cannot cope. He has told me that it was rehabilitated in 1989---

Mr. Deputy Speaker: He has answered that question in part "b" of his answer.

Mr. Ndicho: Mr. Deputy Speaker, Sir, he has said that he is aware of that fact. Last year, the same Assistant Minister answered this Question and promised the House that the Ministry was going to make sure that this system was expanded. Now, he is saying that they need Kshs2.3 billion and that the Council is in the process of shopping for a donor. What is the Ministry doing to facilitate the Council to look for that donor? Right now, the rains are back and the entire town is flooded with sewer water. He answered this Question last year in April and we are now in May and the problem has come back. What is he going to do about it now?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, the Council is one of the organs of the Ministry. When I say that the Council is in the process of shopping around for a strategic partner for this project, it also means that the Ministry is doing that. I have already said that, indeed, during rainy seasons, like now, and I think this is why the Question has come up again; occasionally the sewer lines burst. But our officers are normally on the ground to remedy the situation.

Mr. Imanyara: Mr. Deputy Speaker, Sir, when hon. Members were in Mombasa last week, the external donors made it plainly clear that there would be no money coming to this country. As a result of that, even the bilateral donors are waiting for an agreement. We know that the conditions that have been imposed on this Government cannot be fulfilled. Is the Assistant Minister telling us that now that there are no funds coming to this country, the Government has absolutely abdicated all responsibility for development? If that is so, what will you do about the other sewer systems throughout the country that are bursting at this time?

Mr. Kiangoi: Mr. Deputy Speaker, Sir, this really depends on one's interpretation of the word "donor". I used the term "strategic partner" and by that I mean that we are looking for any other country that would want to go into partnership with us in constructing that, even by way of a loan. That does not mean that we are entirely depending on some kind of donation to come from the so-called "donor community".

Mr. Ndicho: The Assistant Minister says that the Council is already in the process of shopping for a donor. This is the same answer he gave last year. Could the Assistant Minister tell us whether he will take responsibility for the various diseases that will affect the people of my constituency in Thika, including children? If he will take responsibility for this, could he tell us whether he will accept to pay all the hospital bills that will be incurred? He should also tell us how long the shopping will take. Will it take one year, two years or will he shop forever until the end of time?

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. Now that Mr. Ndicho wants to surrender his seat to the Minister of Local Government, is he in order to ask such a question when the Minister will be in charge of that constituency?

(Laughter)

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

Mr. Deputy Speaker: No! Proceed, Mr. Assistant Minister!

Mr. Kiangoi: Mr. Deputy Speaker, Sir, the Government, through our own Ministry and the Ministry of Health, is working tirelessly in fulfilment of its commitment to the people of Kenya. We would not want to see a situation where anybody would die from any health risks as a result of the burst pipes.

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. My point of order arises from what was just stated by Mr. Imanyara, which the Assistant Minister concedes is what was said in Mombasa. Is he in order to continue misleading this House when he knows that the only other place where he could shop is out of the Paris Club? If he does not get money from the World Bank or the IMF, the only other source is the Paris Club. However, the Paris Club does not lend money until they have been told to do so by the World Bank and the IMF. Is he in order to continue misleading the House that the Ministry is shopping for donors when he has nowhere to shop?

An hon. Member: All the shops are closed!

Mr. Kiangoi: Mr. Deputy Speaker, Sir, with your permission I will proceed by first answering Mr. Ndicho's question then I will respond to what Mr. Michuki has just raised. I was saying that we shall work to ensure that the people of Thika are protected from health risks. We shall do this by taking action immediately the Council is informed of any bad sewers. Concerning the issue of donors---

Mr. Deputy Speaker: Order! I think we must get this business of points of orders accurately. Points of orders are raised and directed at the Chair and not at the hon. Member on the Floor. If you raise your point of order and direct it to the hon. Member on the Floor, the Chair will ignore it. You should read Standing Order No.68 properly and understand it. There is no point of order raised.

Mr. Weyrah's Question, for the second time?

Question No.251

RELOCATION OF ARMY CAMP

Is Mr. Weyrah not here? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

ARREST OF KENYAN FISHERMEN BY UGANDAN FORCES

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

(a) Is the Minister aware that Uganda Security Forces impounded 20 fishing boats and arrested several fishermen around Wichlum, Wagusu and Rusinga Island beaches on 20th March, 2002 and detained them at Wayasi Island?

(b) Is he further aware that this action has completely paralysed fishing activities in the area?

(c) What urgent steps is he taking to ensure security of Kenya fishermen and the restoration of fishing activities in the area?

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

(a) I am aware that on diverse dates during the month of March, five boats belonging to fishermen based at Ringiti and Pemba Islands of Mfangano Division, Suba District, were impounded by the Ugandan authorities and detained at an island in Uganda.

However, the Provincial Administration and the Department of Fisheries have since intervened and the boats have since been released. Fishing activities have resumed as normal.

Dr. Oburu: Mr. Deputy Speaker, Sir, it appears the Government, and particularly this Assistant Minister, is not serious in answering this Question. You will recall that this Question was brought here on the 9th of April and the Minister was asked to go and come back with an adequate answer. The Assistant Minister has come back and read exactly the same answer which was read on the 9th of April. It is only the faces of the Ministers which have changed. At that time there was another one and today there is another one, but the answer is exactly the same. A Question to do with boundaries was asked and the Chair directed that the Minister goes and answers it, but he has not done so. Could I have your direction? Can we accept the same answer which was rejected by the House on the 9th?

Mr. Deputy Speaker: No, we cannot do so, unless the Assistant Minister explains why he has brought back the same reply.

Mr. Samoei: Mr. Deputy Speaker, Sir, our investigations on the issues raised by the hon. Member did not reveal anything new for us to respond to and that is why I have given the same answer.

Mr. Wanjala: Mr. Deputy Speaker, Sir, it is good that the Assistant Minister who is answering this Question is one of the "Dot Coms" who are supposed to make a difference. Fishermen in Lake Victoria including those from Busia, Bondo and Suba are suffering. Today, three engines which belong to fishermen from Budalangi Constituency were impounded by Ugandan policemen and are lying at Sigulu Police Station in Uganda. Recently, fishermen in Bondo arrested a Ugandan *askari*---

Mr. Deputy Speaker: Mr. Wanjala, ask your question!

Mr. Wanjala: Mr. Deputy Speaker, Sir, I will ask the question, but I am trying to build it.

Mr. Deputy Speaker: Order! You are supposed to ask a supplementary question.

Mr. Wanjala: Mr. Deputy Speaker, Sir, what urgent steps is the Assistant Minister taking to save the

fishermen in Lake Victoria because even my own nephew was beaten up by a gang and is recuperating in Port Victoria Sub-District Hospital? What urgent steps is the Government taking to protect fishermen even if it means arresting Uganda *askaris* to release the fishermen, including my nephew who is in hospital?

(Laughter)

Mr. Samoei: Mr. Deputy Speaker, Sir, I wish to sympathise with the hon. Member whose nephew is in hospital. However, the hon. Member is aware that our District Security Committees (DSC) both in Bondo and Busia Districts are in constant touch with the DSC of our sister state. As late as last weekend when I was in Budalangi, in Busia District, the DSC did brief me that the boats that had been impounded by the Ugandan security personnel have been released and that there is now very clear understanding between our security personnel and that of our sister state. Normal fishing activities around Lake Victoria region are now in operation.

Dr. Oburu: Mr. Deputy Speaker, Sir, I am completely perplexed by the answer given by the Assistant Minister. On the day this issue was raised, security officers from Uganda invaded Kenyan waters, and were arrested by fishermen. Is the Assistant Minister aware that one of Uganda's security officers was released only last week, on Saturday, and that more than ten boats are still being held at Wayasi Island? His security team talks about having advised the fishermen to stop fishing until the issue of their harassment is sorted out between the Kenya and Uganda Governments. This is a contradiction. What the Assistant Minister has said is not what is happening on the ground.

Mr. Samoei: Mr. Deputy Speaker, Sir, I appreciate Dr. Oburu's concern. My office will look into the issues he has raised. It is, indeed, our responsibility; I will ensure that we discharge that responsibility well. There is some misunderstanding on the territorial waters boundary of Lake Victoria between Kenya and Uganda. We are sorting out that mess in the best way possible. As and when that mess is sorted out, we will put these issues behind us.

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

Mr. Deputy Speaker: Let us proceed to the next Question.

Hon. Members: On a point of order! On a point of order!

Mr. Deputy Speaker: Order! Order! Hon. Members, Mr. Speaker had informed you that Question Time will end strictly at 3.30 p.m. I am allowing one more Question in order to be fair to hon. Members who have asked Questions by Private Notice. If you persist in raising points of order, I will terminate Question Time.

So, let us proceed to Dr. Murungaru's Question.

SUPPLY OF ANTHROPOMETRIC EQUIPMENT

Dr. Murungaru: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) For what reasons was tender number IDA No.15KE-00/01-ICB-002 for supply and delivery of anthropometric equipment awarded to the highest bidder?

(b) What remedial action will the Minister take to ensure that the public does not suffer undue losses?

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Tender number IDA No.15KE-00/01-ICB-002 was not awarded to the highest bidder, but rather to the bidder who met all the conditions of the tender. The conditions and specifications were agreed upon by the donor, the Ministry of Education, Science and Technology and the Ministry of Health, for the procurement of standard anthropometric equipment for use by Early Childhood Development Project.

(b) The Ministry, carefully, took all necessary measures, both technically and commercially, through evaluation of the bids, to ensure that the public does not suffer undue losses.

Dr. Murungaru: Mr. Deputy Speaker, Sir, the equipment, which has been described using a very long word, is actually very simple equipment. It refers to a weighing scale for babies, a clinical thermometer, a measuring tape and a wall chart against which a child stands and by which its growth is measured. It is very simple equipment. The tender attracted the attention of six bidders.

Mr. Deputy Speaker: Dr. Murungaru, ask your question! We are running short of time.

Dr. Murungaru: Mr. Deputy Speaker, Sir, I am only giving you the background to the matter.

Mr. Deputy Speaker: No! I may have to terminate Question Time now! So, ask your supplementary question.

Dr. Murungaru: Mr. Deputy Speaker, Sir, the lowest bidder quoted US\$284,000. What conditions did he fail to meet that were met by the highest bidder, who quoted US\$850,000, and who was awarded the tender?

Mr. Karauri: Mr. Deputy Speaker, Sir, the Technical Evaluation Committee comprises of representatives of the Ministry of Health and the GTZ. The technical committee gave the following reasons for disqualifying some of the

six tenderers.

(a) The Project Equipment Corporation of India did not provide literature, brochures or technical details to enable technical evaluation by the committee. It was, therefore, disqualified.

(b) M/s Nairobi Enterprises Limited did not provide literature, brochures or technical information to enable its technical valuation. It was, therefore, disqualified.

(c) Jose Ansen and Long Technical Details and Specifications did not comply with the required specifications and was thus, technically, non-responsive.

(d) Crown Healthcare of Kenya Limited, which qualified, submitted all the technical details, brochures and literature, which met technical specifications. So, this firm was technically responsive to the bid.

Mr. Deputy Speaker, Sir, the firm referred to by the hon. Questioner, M/s Green Overseas Limited, quoted two items only, and failed to meet the technical specifications. The firm was, therefore, disqualified.

Mr. Ndicho: Mr. Deputy Speaker, Sir, you have heard that the lowest tenderer was disqualified simply because he could not provide literature and brochures. The difference between the lowest bid and the highest bid is US\$600,000. Is the Assistant Minister morally satisfied that, simply because the lowest bidder did not provide brochures, which could be obtained from a bookshop or any other source, he should have lost that tender only for it to be awarded to the highest bidder simply because the latter provided brochures?

Mr. Karauri: Mr. Deputy Speaker, Sir, the bids were floated internationally, in accordance with the World Bank requirements. All the specifications and requirements were spelt out. So, tenderers who did not meet the requirements were not considered.

Mr. Deputy Speaker: Could you ask the last question, Dr. Murungaru?

Dr. Murungaru: Mr. Deputy Speaker, Sir, I have information with me here which indicates that the reason as to why the lowest bidder was not awarded the tender was because, out of the six or seven items that constituted the lot, one was specifically required to have been manufactured by UNICEF. The UNICEF is not a manufacturer of the small weighing scale in question. The scale in question is manufactured by other firms and only labelled "UNICEF". The UNICEF supplies the scale to only one company in Kenya, namely, Crown Healthcare of Kenya Limited. That is why this item---

Mr. Deputy Speaker: Dr. Murungaru, I am sure you have a lot of information, but this is not a debate. We are dealing with a Question. So, proceed and ask your supplementary question. If you wish to lay those documents on the Table, I will allow you to do so, but ask your question now.

Dr. Murungaru: Mr. Deputy Speaker, Sir, is it not connivance that the Ministry recommended that one ordinary child weighing scale should have the label of a non-governmental organisation, which is not a manufacturer, consequently locking out all other bidders from the competition? Having given the Assistant Minister that background, is he satisfied that the country is not being looted of US\$600,000?

Mr. Karauri: Mr. Deputy Speaker, Sir, the information I have is that the Ministry of Education, Science and Technology appointed the Ministry of Health to procure this equipment. In turn, the Ministry of Health adopted UNICEF specifications for this procurement.

Mr. Deputy Speaker: Very well. Let us proceed to Dr. Ochuodho's Question!

RESTRICTION OF FISHING ACTIVITIES

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Following recent restrictions on fishing in Lake Victoria, could the Minister clarify what is expected of fishermen?

(b) What has necessitated such an action?

(c) How does the Government expect those who rely wholly on fishing to cope?

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The restriction on fishing in Lake Victoria was in respect of the *rasteneobola agentea* species of fish, which are the famous *omena* species. The fishing of other fish species such as Nile perch and tilapia was not affected by the ban.

(b) The action was taken as a management intervention aimed at stopping the *omena* fish species from total extinction following a serious decline in the quality of the species being landed.

(c) As stated in part (a) of this reply, only fishing of the *omena* species was affected by the ban.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, perhaps, because the Assistant Minister is not familiar with fish species--- For example, *omena* is small. Even an adult *omena* is small in size. The measure that the Government is

using is the net size; that, if you have a net that is smaller than a certain size, you should not use it in the lake. Now that the Assistant Minister is aware that even the small *omenas* are already adults, would he consider the problem that we have with the Ugandans, where they stop Kenyans from fishing on their territory, and yet the fish is born on our side? What measures is the Government going to take to ensure that fishermen and or fisherwomen do not suffer unnecessarily by being banned from fishing because the net does not select the *omena*? Everybody is affected. Every fisherman and or fisherwoman is affected. What measures is he going to take to ensure that fishermen and fisherwomen do not starve?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, as the hon. Member said, I may not be conversant with fish species. But I am qualified to say that I know a bit of fish and their behaviour. It is going to be very difficult to control fishing on the other side of our neighbour. But I want to assure the House that my Ministry is discussing with our neighbour on how to, perhaps, control fishing in the lake. My Ministry took the action of restricting fishing of *omena* species after consultations with stakeholders. That is, fishermen and fisherwomen complained that there was going to be a very serious decline of *omena* if we continue allowing people to fish at will. At a meeting held on 21st of June, 2001, at Tom Mboya Labour College; that is in Kisumu, to which Dr. Ochuodho had been invited, they decided that they should stop fishing of *omena*.

Mr. Badawy: Mr. Deputy Speaker, Sir, the restrictions, if I may recall, are contained in a legal notice that has also affected fishermen and fisherwomen in the Coast to an extent that for the last three weeks - from the time these restrictions were in place - we have not had fish in Malindi because of suspension of traditional fishing gear which has affected the traditional fishermen and fisherwomen. Could he consider removing those restrictions until such a time when the Government comes forward with alternative fishing gear for the poor subsistence fishermen and fisherwomen?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the Ministry will consider the action which has been requested by the hon. Member. After consultations with the stakeholders, my Ministry will take action so that we are all in the same wavelength.

Mr. Deputy Speaker: But, Mr. Assistant Minister, if, in fact, fishing nets are the offenders, why do you not remove them from the shops so that fishermen and fisherwomen do not buy them? Why do you wait for the fishermen and fisherwomen to take them to the lake and you arrest them?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, taking away the fishing nets and the rest is not under my Ministry. So, I cannot go to all the shops in this country and collect all fishing nets.

Mr. Deputy Speaker: Order, Mr. Sumbeiywo! You published these restrictions in the *Kenya Gazette*. Why do you not publish similar restrictions with regard to nets so that all sorts of people do not stock them?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, legally, we will do that, but collecting them physically is impossible. So, we will discuss it with the stakeholders, and we will come up with an Act so that this is rectified.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I am glad the Chair is also a fishmonger, and I appreciate the concerns.

(Laughter)

But, part (c) of my Question asks: What measures---

Mr. Deputy Speaker: Order, Dr. Ochuodho! If you repeat what you have said just now, it will get you a sack!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I withdraw that, but I appreciate the friendliness---

An hon. Member: And apologise!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, I apologise. Part (c) of my Question asks: How does the Government expect those who rely wholly on fishing to cope? *Omena* is the cheapest kind of fish, and it is what a majority of Kenyans can afford, especially those from around the lake. Now that the Government has banned the fishing of *omena*, the question is: How does the Government expect them to cope? For instance, if the Government had created the Fisheries Development Authority, maybe, they would have found a suitable way whereby adequate fish would be reared and people would still fish without disturbing the eco-system. But since the Government has not put it in place, what measures is the Government taking to make sure that alternative livelihood is availed to the fishermen and fisherwomen?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I said earlier on that we are going to look into the matter, and I would like also hon. Dr. Ochuodho to participate in the discussions so that we can come up with a decision that is going to help both the fishermen and fisherwomen and the local people.

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

(a) Could the Attorney-General confirm to the House that the current civic education which is being undertaken countrywide by the Constitution of Kenya Review Commission is also being provided to the Armed Forces and security forces?

(b) Who are the providers of the civic education in the armed and security forces?

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

(a) Consultations are underway between the Armed Forces and other security forces for the Commission to undertake civic education for the Armed Forces and other security forces.

(b) The Commissioners themselves will provide the civic education.

Mr. Khamasi: Mr. Deputy Speaker, Sir, I think the Attorney-General knows that this exercise is already late, particularly bearing in mind that he does not know when the elections will be called. Could he assure us as to how long these consultations will go on and which particular forces are going to be given the civic education, taking into account that you have got other forces around which are unofficial like *Jeshi La Mzee* and so forth so that, as voters, they can be able to benefit from that civic education programme?

Mr. Wako: Mr. Deputy Speaker, Sir, I am not aware of *Jeshi la Mzee*. I am only aware of the forces which are recognised by Acts of Parliament, and they are there. The target and aim of the Commission is to complete the exercise by the end of June.

Mr. Murungi: Mr. Deputy Speaker, Sir, this is a very important Question because the Commission might spend a lot of time in writing a new Constitution. Then, at the end of the day, we do minus work, because a military Government comes and takes over and it renders all these exercises useless. Could the Attorney-General take the Question most seriously and tell the House when the Commission is going to visit various military barracks in this country and when the military officers themselves are going to give views to the Electoral Commission of Kenya? This is because they are also Kenyans and they must have input in the Constitution of Kenya Review Commission exercise.

Mr. Wako: Mr. Deputy Speaker, Sir, I can state that the Commission has already undertaken civic education for the Provincial Administration. They have already done that. Now, currently, the Chairman of the Commission and the Commission as a whole are in consultations with the Kenya Army, the Kenya Police Force, the Kenya Prisons and the Administration Police Force, so that they can embark on a programme of civic education. The target is to undertake that programme and complete it by June.

Mr. Kitonga: Mr. Deputy Speaker, Sir, I would like to know from the Attorney-General how much money has been kept aside for civic education programmes within the security forces, and whether they are going to consider the barracks as a constituency?

Mr. Wako: Mr. Deputy Speaker, Sir, I do not have those figures for the security forces here, but as far as civic education is concerned, the Commission had asked for Kshs800 million in the Budget, against a total budget of Kshs3.2 billion which they asked for. The Government has made available to their overall budget for the year ending June, 2002, Kshs1.2 billion. Therefore, the budget for civic education, although the target was Kshs268 million, because of the money that has been made available, will be about one-third of that; Kshs80 million.

Mr. Khamasi: Mr. Deputy Speaker, Sir, the security forces in this country have got one Commander-in-Chief. Without proper civic education, the tendency is that they have got to obey orders and when it comes to voting, they will vote for their Commander-in-Chief. This is a very serious matter and we would like the Attorney-General to be specific. Even the Civil Service, let alone the Armed Forces, is not being provided with civic education. Could the Attorney-General be specific and tell us when this exercise will start? In fact, civic education has not started even in some critical areas!

Mr. Wako: Mr. Deputy Speaker, Sir, I do not think we can engage in speculation as to what will happen. But going by the track record, Kenya has held elections regularly since Independence. At no time have there been orders given to the security forces of this country to vote in a particular manner. So, let us not speculate as to the future. Our track record speaks for itself. There can be no such orders for voting. As I have said, the Chairman and other officials of the Constitution of Kenya Review Commission are currently holding discussions with various heads of the security forces, and I believe that their discussions are being finalised. As soon as they are finalised, civic education will start. According to the projections of the Commission, civic education should have been provided to all our security forces.

Mr. Deputy Speaker: That brings us to the end of Question Time.

Next Order!

POINTS OF ORDER

EFFECTS OF LANDSLIDES IN SOUTH IMENTI

Mr. Murungi: Mr. Deputy Speaker, Sir, I would like to seek a Ministerial Statement from the Minister of State, Office of the President with regard to the tragic landslides that have occurred in South Imenti Constituency, Meru Central District. These landslides have killed scores of people, destroyed property and rendered several men, women and children homeless. The worst hit area is Giumpu Village where more than a dozen people have been buried alive, and so far, only seven bodies have been recovered. Those displaced are now camping in school compounds and church compounds without basic necessities. Tea farmers are not picking their tea because the roads have been washed away and it is not possible to collect tea in that area at all. In view of this tragic situation, we are requesting the Minister to give a Ministerial Statement in this House at the earliest possible opportunity, clarifying the number of persons who have been killed or injured in those landslides, the number of homes that have been destroyed and the persons who have been displaced and also the steps the Government has taken to assist the victims of the landslides. We would like to know specifically, how much money the Government has set aside from the National Disaster Fund to assist the victims of the landslides.

ELECTION OF CBK DIRECTORS

Mr. Murungi: Mr. Deputy Speaker, Sir, I have another request to the Minister for Agriculture. Last week the Minister for Agriculture published a notice in the local Press regarding the forthcoming Coffee Board of Kenya elections on May, 16th, 2002. In the Gazette Notice, the Minister made it very clear that each factory shall elect five delegates who will participate in the election of the Directors of the Coffee Board of Kenya. But we have received numerous complaints that factory managers and factory committees have conspired to handpick delegates, instead of having them elected by farmers. So, we would like the Minister to issue an urgent statement, clarifying that in accordance with Rule 6 of the Coffee Election Rules, the delegates from each factory must be elected and not appointed by the committees or the managers.

Thank you.

AGREEMENT BETWEEN KENYA GOVERNMENT AND WTO

The Assistant Minister for Trade and Industry (Mr. Ekirapa): Mr. Deputy Speaker, Sir, last week, I promised to issue today, a statement on the agreement between the Government of Kenya and the World Trade Organisation. Yesterday was a public holiday and that statement is not ready today. I seek the indulgence of the House that I be allowed to issue that statement next week on Tuesday.

CONSTRUCTION OF GACHERA TEA FACTORY

Mr. Muiruri: Mr. Deputy Speaker, Sir, on 11th April, 2002, I did put a Question to the Minister for Agriculture to clarify the controversial construction of Gachere Tea Factory in my constituency. He promised this House that within one week, he would be laying on the Table, documents concerning all the agreements between the Kenya Tea Development Agency (KTDA) and a company called KAPAKO. We also wanted him to table the letters of offer and the agreement between KTDA and the electrical contractor, as well as agreements between KTDA and the main contractor. This is the third week and he has not made that Statement. He also promised to lay on the Table, the agreement on the purchase of the land, which is only 24 acres, which cost the tea farmers close to Kshs13 million. That amounts to about Kshs600,000 per acre. The Minister has not lived up to his promise and I would like the Chair to order him to lay on the Table, all those documents. What is the Minister hiding in this matter?

BREAKING OF KERUGOYA/KUTUS MUNICIPAL COUNCIL OFFICES

Mr. Keriri: I stand to seek a Ministerial Statement from the Minister for Local Government on a very serious matter that took place today in Kerugoya/Kutus Municipal Council offices. An employee of the Ministry of Local Government moved to Kerugoya today, protected by policemen and broke doors to the council offices to get access. The said employee is a Mr. Mwangi who has been a clerk to many municipal and county councils in this country. He was in Kirinyaga Municipal Council in the late 1980s and he was removed from there because of grabbing. He sold cemeteries, cattle dips and everything else. He went to Ruiru and in Ruiru---

Mr. Deputy Speaker: Order, Mr. Keriri! Just request the Minister to give a Ministerial Statement on the matter at hand and avoid all the history which you are already aware of.

Mr. Keriri: I am just describing the character.

Mr. Deputy Speaker: No, I will not allow that!

Mr. Keriri: Mr. Deputy Speaker, Sir, he has been clerk to many municipal and county councils, and has always been expelled because of corrupt practices. Today, he was guarded by policemen in order to break into the offices of Kerugoya/Kutus Municipal Council. Could the Minister tell us why a clerk of this nature should go on his own, break into offices of a municipal council, enter and pretend to be working? He was there in October last year and he was rejected. The former Minister and the former Permanent Secretary for Local Government accepted to pull him out. We do not know where he has been since then. Today, he was in Kerugoya, doing that mess.

Mr. Deputy Speaker: What point do you want the Minister to address?

Mr. Keriri: I want the Minister to tell this House why he has been allowed to go there under police protection, when he is such a crook and a looter.

RESCUE OF MAROONED NGOMANO VILLAGERS

Mr. Katuku: on a point of order, Mr. Deputy Speaker, Sir. This is a matter of life and death and it has to do with floods along Athi River. In my constituency, two young men have been caught up by water in the middle of a small island in Athi River. This is in Ngomano Village, Yathui Division. They have been there for four days and up to date, no action has been taken. I am wondering whether a Ministerial Statement will assist.

I would like to call upon the Minister concerned - and because he is not here, the Leader of Government Business should relay my plea to him - to order the police to go and rescue those two young men, maybe using a helicopter. We have been trying to assist them and it has not been possible. It is only a helicopter which can go there and lift them up. I have tried for a whole day to get a helicopter from the Government, but Government officers were reluctant to assist me with one.

Could the Chair order the Minister concerned to take this issue seriously and go and rescue those Kenyans? I have seen helicopters being used by Government officers to go to public meetings. Why can they not be used to rescue Kenyans who are stranded on this island?

CLEARING OF FORESTS

Mr. Munyao: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Environment. There have been a lot of directives from the Government, particularly from the Minister for Environment, on felling of trees. Currently, Ngong Forest, Mount Kenya and Mau Forests are being cleared and the Minister has been heard saying that no tree felling is taking place. Could the Minister clear the air for Kenyans?

INSECURITY IN NAIROBI

Mrs. Mugo: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister in charge of internal security. It is apparent that the Government has abdicated its responsibility to provide security to the residents of Nairobi City. In Nairobi, people are afraid that they will be killed, robbed or women will be raped and nobody is taking action. When such incidents occur, nobody is ever arrested. Hardly a day passes without us reading in the newspapers about five or four women having been gang-raped. Last weekend, four Asian women were gang-raped and a fifth woman escaped rape just miraculously. I would like the Minister to tell us that whether police have failed completely to protect the residents of Nairobi City, and more so women, who are living under the "death row". Raping is traumatising enough and being raped during this HIV/AIDS era is being sentenced to death, especially when one is gang-raped. Could the Minister tell us what measures the Commissioner of Police will put in place to protect women from being gang-raped?

Mr. Deputy Speaker: Mr. Leader of Government Business, it seems there is no Minister to respond; so, the onus falls on you!

The Vice-President and the Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, the truth of the matter is that none of us here can disagree with the sentiments expressed by the hon. Member. Indeed, it is true that it is not only traumatising to be raped, but given the problem of HIV/AIDS pandemic, the whole issue is definitely very bad. I will definitely take up this issue with the relevant Minister.

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. Would it not be fair for you to ask the Leader of Government Business to respond to the issue I raised here about people who are trapped in the middle of Athi River? These people have been trapped there for four days and there are crocodiles, hippos and other dangerous animals in the

River. Would it not be fair for the Leader of Government Business to respond on behalf of the relevant Minister?

The Vice-President and the Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I also take that into account. I was listening quite attentively when the hon. Member was talking about the lives of those two young men who are in problems.

Mr. Deputy Speaker: Hon. Members, to be fair, I will direct that the Clerk of the National Assembly extracts the relevant parts of the HANSARD for today and sends them to the various Ministries which have been asked to respond to points of order this afternoon. I rule that those issues which have been raised must be responded to latest by Wednesday, next week.

MOTION

EXTENSION OF HOUSE SITTINGS

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, notwithstanding the provisions of Standing Order 17(1) and (2), this House orders that the sittings of the House be extended with effect from Tuesday, 7th May, 2002, up to prior to the reading of the Budget Speech as follows:-

Tuesdays from 6.30 p.m. to 8.30 p.m.;

Wednesdays from 6.30 p.m. to 8.30 p.m.; and,

Thursdays from 6.30 p.m. to 8.30 p.m.

Mr. Deputy Speaker, Sir, I bring this Motion here in the light of the fact that we have a lot of outstanding business, especially some very urgent Bills. It was thought appropriate by the House Business Committee that I bring this Motion to the House and ask the House to agree that it does as much business as possible prior to the Budget Speech. I hope that the hon. Members will see it fit to approve this Motion because it is important that we transact as much of the business as possible, especially on a number of Bills which are so vital. It will be most unfortunate if a number of these Bills are not deliberated on by the end of the year. We know very well that the moment we come back in June for the Budget Speech, the Budget Speech circle will continue all the way up to the third week of October, 2002. Then thereafter, we will have very little time to transact much business by the time the House will go on recess in December, 2002.

With those few remarks, I beg to move.

The Minister for Tourism and Information (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to second the Motion. While seconding the Motion, I would also like to request hon. Members to be considerate when deliberating on it. In the Standing Orders, one is allowed to speak for 30 minutes, but it is clear that on some of the issues, we are seeing a lot of repetition and this is denying several other hon. Members an opportunity to contribute to debate on some of the Bills before the House. So, I would also request hon. Members to be considerate and perhaps consider reducing voluntarily their contributions to 15 minutes rather than 30 minutes to allow more Bills to be dealt with.

Mr. Deputy Speaker: Hon. Members, before I propose the Question, let me point out that, in fact, the Vice-President and Leader of Government Business did request for my permission to amend his Motion in the manner he has read it, before it is moved! So, the Motion as proposed by the Leader of Government is the Motion before the House!

(Question proposed)

Mr. Muite: Mr. Deputy Speaker, Sir, there is no objection, in principle, to the request to extend the sitting hours of the House so that we can go through the heavy agenda that is before this House. In fact, the Chair will recollect that some of us have actually argued that when there are important debates, they should be allowed to go through even into the night. The Indian Parliament actually debated the vote of no confidence for 16 hours non-stop! Eventually, they took a vote at 4.00 a.m.! So, there are examples when there are important Motions, debates or Bills before the House; that debate can continue for many hours. However, I have a problem with the suggested sittings. Last time when we extended sitting time from 6.30 p.m. to 8.30 p.m., we had a problem of raising a quorum. We need to get a balance here because we want debates on these important Bills to be incisive and debated in depth. Sometimes when it is late in the evening, you find that hon. Members tend to be a little tired and want to go home. If you total up the number of hours we are adding to the suggested extension, it is only six hours! Now, if we were to sit on Tuesday morning from 9.00 a.m. to 1.00 p.m., those are four hours; Thursday, 9.00 a.m. to 1.00, those are another four hours. That is a total of eight hours a week! So, we could actually have even more time to debate these Bills and

that would be better time when hon. Members are fresh, and they will be able to devote indepth debates to these Bills, and be able to go through them.

Mr. Deputy Speaker, Sir, of course, I am aware that hon. Members of Parliament have got other matters to attend to, but this extension is not permanent. I think we should be going for the pre-Budget break in a week or two weeks' time. So, if we were to sit on Tuesday morning and Thursday morning, we would be able to devote quality time, in the mornings, to debate Motions and Bills. We will take a lunch break and come back in the afternoon to continue. So, I am not opposed to the principle of extension; in fact, I wish we could actually extend these sittings permanently so that we can get away from being accused, because it is true we are getting paid for sitting here! Although hon. Members have got other matters to attend to, it is not fair to the taxpayers who are meeting our expenses, that we should sit only on Tuesday afternoon; it is only on Wednesdays when we sit for the whole day, and we sit only in the afternoon on Thursdays, and we are free for the rest of the time. I personally would have no problem if we were to amend the sitting hours of this House, so that we sit everyday except on Mondays and Fridays, but everyday we should sit during morning hours and afternoon hours, so that we can attend to other businesses on Mondays and Fridays.

Mr. Deputy Speaker, Sir, even on the Government side, as the Chair is aware, each Ministry has now got two, three to four Ministers and Assistant Ministers. So, there should not be any problem even on the Government side for one of the Ministers to come here and attend to matters relating to that particular Ministry; given that there are a number of Ministers in one Ministry. So, it will not be inconvenient if we were to sit on Tuesday and Thursday mornings. I do urge the Leader of Government Business to reconsider whether it is not more practical, much more convenient, better and effective for this House, that we sit on Tuesdays and Thursdays in the morning. This is because I anticipate that we are going to have some problem with raising quorum.

I do want to sound a warning. If my views are in a minority, and the extension is in favour of evenings, I shall be here every evening. I sound a warning that, I will repeatedly raise the issue of quorum, if there is no quorum. If there is no quorum, I shall repeatedly stand up to say that there is no quorum! I urge that this consideration be taken seriously.

Mr. Deputy Speaker: Mr. Muite, do you support or oppose the Motion?

Mr. Muite: Mr. Deputy Speaker, Sir, I want to hear whether the Leader of Government Business will accommodate the suggestions which I have made, if he accommodates them, then I will support. If he will not, I will oppose!

Mr. Imanyara: Mr. Deputy Speaker, Sir, I have only two very short points to make. One is that, I hope that the Leader of Government Business, in extending the sittings, should add the Wednesday afternoon sitting to be Private Members' time to move their Motions so that we do not get all the six hours that have been set aside, to debate just Government Business.

As the Chair would have noticed, as indeed, everybody who was in Mombasa last week; the so-called urgent Bills are, in fact, the Bills that the World Bank and International Monetary Fund (IMF) want this Parliament to pass before they can reconsider the issue of giving the country aid. I would have imagined that the Leader of the Government Business would have been honest to the House and say that these are the conditions that are being imposed on us! This is because we were told in Mombasa that they have insisted on a number of Bills that they want passed and they have set them out. If you look at the Order Paper, we still have most of those Bills, that the World Bank and IMF insists that they get passed by this House, listed as Bills that are urgent.

Mr. Deputy Speaker, Sir, this raises a very fundamental issue for our sovereignty as a nation, that we are doing business that is imposed from external sources. If hon. Members are going to debate matters of national importance and seek Motions of Adjournment, they do not get them! I am of the view that, the Leader of Government Business makes it clear that, out of this business that they want completed before the Budget Day, how much of it is required of us by the IMF and the World Bank. What are the guarantees that, in fact, if we do pass these Bills as result of these extended sittings, we are going to get aid? This is because it was made absolutely clear that no matter how many Bills we pass, until and unless the Donde Interest Rates Bill is repealed, and the US\$200 billion that has been stashed away is brought back into this country, no money will come to this country! So, is the Leader of Government Business certain that he is asking hon. Members to do useful business by debating matters that are imposed on us, when at the end of it, there will be nothing to show for it?

Thank you, but I do hope that the Leader of Government Business will respond to these issues.

With those few remarks, I support.

Mr. Munyao: Mr. Deputy Speaker, Sir, I equally share the sentiments expressed by the Leader of Government Business that we already have got a lot of work before us, and this Parliament must work on these Bills which are pending so that we clear them before we take a pre-Budget break.

I would like just to propose a little amendment to what my friend, Mr. Muite, suggested. We are likely to take

a break of four weeks. Why can we not take a break of two weeks so that we come back and continue with House business? As I support Mr. Muite, I would rather suggest that, instead of extending time during evening hours, let us adjust it to other hours of the day during the week. I am aware and, I am going to apologise to my colleagues who actually have several other jobs to do, but it will be more workable during morning hours as hon. Muite has suggested, where we can raise, at least, a quorum, rather than sitting in the House after 6.00 p.m. and 7.00 p.m. and fail to raise a quorum, and then we are forced to adjourn early. I want us to think about this issue seriously. Both the Chair and myself have been in this House and we know what happens, even after 6.00 p.m. or 7.00 p.m. on issues which are very crucial.

Mr. Deputy Speaker, Sir, another reason is that, we want to debate House business when we are still strong and able because, after 6.30 p.m., we find that things are just rolling and we are just rubber-stamping them. Some of these Bills are fairly crucial and they need serious thinking. I agree that, at least, we extend time of debate, but let us try and see where we can recoup hours from to fit in this extension.

I am asking the Vice-President, who is the Chairman of the House Business Committee, to try and re-adjust the programme in such manner so that we can accommodate his wishes, and we will also have enough time to discuss these Bills.

Mr. Deputy Speaker, Sir, I support the proposal that instead of sitting after 6.30 p.m., we spread the time between working days and reduce our holiday by two weeks. We have been abused by everybody that we are paid a lot of money, and yet we do very little. The other day, somebody went to the Tribunal at County Hall to suggest that we should sit from 8.00 a.m. to 5.00 p.m. six days a week. The day we will start doing this, our enemies out there will see that we are working hard. Like Mr. Muite, I will sit here up to the time the House adjourns, but I would like to propose that the Vice-President considers this readjustment.

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. I support the spirit of the Motion. We, as the representatives of the people of Kenya, do not value the responsibility given to us by Kenyans. I support that we should even sit up to midnight, so long as we are disposing of important issues that affect Kenyans. I would like to urge the Vice-President to bring an amendment to this House stating that a Member of Parliament should attend a sitting for such and such number of hours in a day. I would like to point out that many of us come here and make "technical" appearances. We do not take time to discuss important issues which affect our country. If we were doing that, by now, we would have disposed of the important issue of interest rates in this country, which is destroying our businesses and economy.

I would like to support this Motion on condition that Vice-President and Leader of Government Business, in conjunction with the Leader of the Official Opposition, bring an amendment to this House which will require us to devote so many hours of sitting days in this Parliament.

With that amendment I beg to support.

Ms. Karua: Mr. Deputy Speaker, Sir, I rise in support of the Motion, and I hear consensus except on when the extension should be. Some colleagues have suggested that we have morning sittings on Tuesdays and Thursdays. I would like to urge them to re-consider that on the basis that hon. Members have already planned engagements on the basis of the mornings that are free during the week. We should be the ones to tell members of the public and Kenyans in general, that the work of a Member of Parliament is not only attending the parliamentary sittings. We have Committee work and also we follow up matters on behalf of our constituents with the Ministries and other development partners. These are the chores that we do on the days we are not in Parliament.

Mr. Deputy Speaker, Sir, if we were to say now that we sit on the mornings of next week, that will mean that several Members may have to miss important engagements. But I do think that there is a good case to consider, in future, extending sittings in the mornings. I recall that there is a precedence of what we seek to do now. Last December, before we went on recess, we deliberated on the Coffee and Sugar Bills through the extended sittings. Once or twice there was a problem of lack of quorum, but this is a problem we have even on Wednesday mornings. Lack of quorum is a problem we will have to deal with as Members. This is because we know that at any time of the day, the problem can crop up, and not just when sittings are extended in the evening. Therefore, I would like to suggest that the Motion be considered as it is, but we do consider extending our normal sitting hours to enable us transact more business. We should also consider amending our rules so that unless a Member has attended Parliament for a given number of hours during the day, he does not receive his pay. "Technical" appearances should not be recognised for purposes of Members' pay.

Mr. Deputy Speaker, Sir, having said that, I beg to support the Motion.

The Assistant for Trade and Industry (Mr. Ekirapa): Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion as moved. I agree with the reason given by the Mover of the Motion that since we have many Bills pending before the House, the additional time will give us the opportunity to deal with them so that we can get rid of some of them before we go for recess.

I do not support the impression given by the hon. Member that we are being forced to sit long hours in order to pass certain Bills, which the World Bank and the International Monetary Fund (IMF) want passed. We were in Mombasa with the World Bank and the IMF representatives attending a seminar, and this particular issue was raised by an hon. Member. The World Bank was emphatic that it did not want to impose any conditions on the National Assembly to pass any Bill. The two financial institutions said that the Government can make any proposal, which they are prepared to listen to. Therefore, I do not like the impression which has been created by the hon. Member that we, as the National Assembly, have been forced to discuss or pass certain Bills at the convenience of the World Bank and the IMF.

I would like to propose that the sitting time being proposed--- I know that the Mover said that this should end by the time we go for recess, but I would like to propose that in future, the House Business Committee should consider making this a permanent feature so that we can spend a little more time debating on the outstanding Motions.

Mr. Deputy Speaker, Sir, with that contribution, I beg to support the Motion.

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, I would like to enjoin myself with the hon. Members who have spoken before me. First, I would like to say that as a Member of the House Business Committee, I was privy to the discussions that took place on Tuesday. When this matter came up, the whole group unanimously supported the idea that the Vice-President should move a Motion for the extension of sitting time. There is nothing new about this. As the Chair can remember, during the last Session of Parliament we had to add two hours on the normal sitting time, which essentially meant that we had to go home at 8.30.

I have two issues I would like to talk about. The first issue is on lack of quorum. As the Chair knows, we are the men of arms in this House and every time there is lack of quorum, the worst happens to us. We have to keep on walking up and down, or from our offices, to look for hon. Members. I think time has come for the Chief Whips of this House to be empowered so that they can punish hon. Members who absent themselves from the sittings of the House. Those are some of the things we have been saying quietly. Time has come for us to talk loudly about this. This will mean that if I find an hon. Member taking tea, or he or she is leaving and I order him or her to come back, he should do that because the Chief Whip has within his mandate done his job.

Mr. Deputy Speaker: Mr. Nyagah, hon. Members do not punish, but they sanction!

Mr. N. Nyagah: Mr. Deputy Speaker, Sir, I am sorry. I got carried away. The Chair will remember the other day when the Attorney-General was contributing in this House, he talked about the immense power that his office has. So, occasionally, do forgive me when I forget.

[Mr. Deputy Speaker left the Chair]

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

It is mandatory that we contribute for 30 minutes when it comes to Bills. I think that is the issue the Deputy Leader of Government Business was alluding to; that when hon. Members are given an opportunity to contribute, they should realise that many hon. Members would also like to make contribution. We do not want to allow only a few hon. Members to contribute, particularly when we know how the choice of speakers is made. There are those hon. Members who may take a very long time before they get an opportunity to contribute.

Lastly, Mr. Temporary Deputy Speaker, Sir, as Chief Whips, we made our contribution to the tribunal which is looking into the terms and conditions of service of hon. Member of Parliament. One of them is the question of sitting arrangements. How often will we sit? How many days will the House sit and from what time? This has been done. I agree with Ms. Karua that this is something that will take a bit of time. We do have the relevant Committee that will be able to look into the variations of our Standing Orders. When we come back after recess, that Committee should have probably looked into that.

The question of how long this House should sit is something that needs to be addressed because we do not want technical appearances. I talk with great confidence because I know what has been happening in this House. I am virtually a prisoner of this Parliament. Therefore, when I talk about timing and lack of quorum, I know what I am talking about. It is a shame that after this discussion, there will be no quorum in this House because many hon. Members will walk out. I doubt whether we will have a quorum by 8.30 p.m. Therefore, Mr. Muite is quite right. We can raise those issues because the Whips will be running up and down looking for hon. Members to form a quorum.

I beg to support.

Mr. Maundu: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I concur with my colleagues that the biggest problem and handicap here is lack of quorum. Even the extension of House sittings may turn out to be an exercise in futility if there will be persistent lack of quorum. I would like to plead with hon. Members

who are party to lack of quorum in the House to think twice. I think lack of quorum in this House is a traditional feature because we require only 30 hon. Members to form a quorum, out of 212 Members. I think this number is too small. It does not show seriousness on the part of our Standing Orders. I think this is a matter we need to look at and see how we can improve on it.

Mr. Temporary Deputy Speaker, Sir, time has come when, as hon. Members, we must commit ourselves to the business we have been called upon to do. One way of making sure what the DP Chief Whip has said is implemented is to regularly indicate who has been in Parliament, and how many times within each particular month. If this matter is publicised, I think the population out there will know who is serious in Parliament and who is not serious. Most of us will start to disappear from Parliament and Kenyans will elect Members who can create quorum.

The other aspect which I would like to talk about is the quality of debates in this House. I could listen to the Chief Whip when he is talking because there is something I can absorb. But there are some of us who debate in a manner that endangers me in terms of comprehension to the extent that I must do an escaping act, at least, for some time, so that when I return I may find some favourable contribution. So, there is need for Parliament to avail facilities for us to read and study so that we make reasonable contribution in the House. I think that is basically the problem. When I walk in here and find somebody whose trend of argument is windy, I will find it better to drink a cup of coffee with friends while waiting for critical matters to arise. When the bell rings, I will return very quickly to do my usual business.

So, I think these are issues which we need to address. I agree there are quite a number of critical Motions and Bills before the House which must be dealt with before the close of the year. I think all us should commit ourselves to making sure that these Bills go through because they are important to our people. We should also make a decision to prepare quite seriously and attend to the business of this House.

Again, the Movers of these Motions and Bills should prepare themselves well and present arguments that we find tolerant. When you present a Bill and I find that your arguments are caustic, the tendency is that if I am not in agreement with them, perhaps, instead of consulting loudly or otherwise misbehaving here, I would rather go out and return later to vote on a matter that I did not hear very correctly. Consequently, I may not have an excuse to support it.

Mr. Temporary Deputy Speaker, Sir, I support that we extend House sittings so that we attend to serious business.

The Temporary Deputy Speaker (Mr. Imanyara): Prof. Saitoti, there is no one who wants to contribute. Therefore, you may reply.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I do want to commend all the hon. Members who have spoken because they have seen the sense of this Motion and have given their support to it.

There are only about three points that I do want to make in form of comments. One was what Mr. Muite said, that perhaps I should have brought a Motion asking this House to actually sit on Tuesday and Thursday mornings. Other hon. Members have also felt that, perhaps, I would have made this Motion stronger by adding another proviso, asking for sanctions against Members who do not sit here all the time.

Mr. Temporary Deputy Speaker, Sir, I am sure you do appreciate that before a Motion is allowed to be moved here, it must be within the Standing Orders. Currently, the Standing Orders only permit us to vary the sitting hours. Those are the only ones we can extend. So, for us to be able to meet on Tuesday morning, or even to have an extra sitting on Friday, that will require the amendment of Standing Orders, just as much as certain sanctions that hon. Members have referred to. We do have the Standing Orders Committee and maybe, these are some of the issues which can be addressed. We need to address issues like the need to increase the sitting days in a week. There is also the issue of whether we need to bring in some kind of provision to impose sanctions on hon. Members who do not normally attend a number of sittings, including those who make technical appearances.

Mr. Munyao did also request if, indeed, we could extend for an hour---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. With due respect to the hon. Vice-President, is he in order to suggest that we cannot sit on Tuesday and Thursday mornings unless we amend the Standing Orders, when Standing Order No.17(1) is very clear indeed? It says:-

"Unless for the convenience of the House Mr. Speaker otherwise directs, the House shall meet at 9.00 a.m. on Wednesday mornings and at 2.30 p.m. on Tuesday, Wednesday and Thursday afternoons, but more than one sitting may be directed during the same day."

Mr. Temporary Deputy Speaker, Sir, a correct interpretation of this Standing Order is that, without amending this particular Standing Order, we can, indeed, sit on Tuesday and Thursday mornings if Mr. Speaker so directs.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I am also referring to the same Standing Order. It says:-

"Unless for the convenience of the House Mr. Speaker otherwise directs, the House shall meet at

9.00 a.m. on Wednesday mornings and at 2.30 p.m. on Tuesday, Wednesday and Thursday afternoons, but more than one sitting may be directed during the same day."

Mr. Temporary Deputy Speaker, Sir, I brought in that particular Motion, taking into account this particular Standing Order No.17(1). More than that, I think hon. Members will agree with me that this is an issue which should be looked at more broadly by the Standing Orders Committee. In fact, there may be many questions as to why we should meet on Tuesday morning as opposed to Monday or the whole week. I do want to say, because of that Standing Order we cannot meet, but that "convenience" itself needs to be looked into. I believe the Standing Orders Committee should look into all these matters. I think that will help us a lot.

Mr. Temporary Deputy Speaker, Sir, I would like to dispel the notion that the reason I have brought this Motion is to ensure the passage of the Public Officer Ethics Bill and the Corruption Control Bill, merely because they do happen to be conditionalities for the disbursement of aid from the Bretton Woods institutions. I must be fairly frank and transparent that it is, indeed, true that when these two Bills are passed, the issue may be looked at positively. At the same time, there is no doubt in my mind, and I am sure that, that is the view of very many hon. Members, that we certainly require a code of ethics for those who hold public offices, including hon. Members of Parliament. I also believe that it is important that we do have a legislation that will prevent and even curb corruption. The IMF, or no IMF we need it. I believe it is important for us to agree that good governance is good for us, and we should not be told that by outsiders. If there is a convergence between the Bretton Woods institutions and what we believe in, well and good. But there are many other fundamental Bills like the Miscellaneous Amendments Bill which we need to deliberate on and pass. Those are not IMF conditionalities.

I brought this Motion because of those reasons that were discussed by the House Business Committee, namely that we have a big catalogue of business to be deliberated and, in fact, it will give this Parliament a good image; to be seen that we are willing to sacrifice our time and stay until late to transact the business which is going to assist the people of this country.

On the question of quorum, I do leave it to the conscience of the individual hon. Members. We were elected here by the people that we represent to come and serve them. I do not think that we can give an excuse for not addressing the work that we were brought here to do, by merely the fact that we do not want to sit. I think that is an issue that each one of us should trouble his or her conscience and see what exactly to do.

Mr. Temporary Deputy Speaker, Sir, once again, I beg to move and I hope the hon. Members - as they have spoken - will, in spirit and to the letter, support this wonderful Motion.

(Question put and agreed to)

BILL

Second Reading

THE DOMESTIC VIOLENCE (FAMILY PROTECTION) BILL

(The Attorney-General on 23.4.2002)

(Resumption of Debate interrupted on 30.4.2002)

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir. I have been contributing for the last one week on this Bill. I started contributing last Thursday, continued on Tuesday the following week, and this is the third time I am taking the Floor to contribute to this Bill. During that period, I laid on the Table two documents.

The first one was a document on *Domestic Violence in Kenya*, a report of a study done by FIDA on the domestic violence situation in Kenya. I also laid on the Table a copy of the *Kenya Times* newspaper - which I understand is a KANU newspaper - of Saturday, 27th April, with the headline: "Mungiki to FIDA: We Will Cut You". I laid that newspaper on the Table last Tuesday. It was written on Saturday and widely circulated in this country by an instrument of the ruling party, *The Kenya Times* newspaper, threatening women in FIDA that they were going to be "cut". This was an obscenity. Since the Attorney-General is here, I hope he is going to take action, because I understand this threat has been issued by the *Mungiki* sect which has been banned in this country. I have an order declaring *Mungiki* a dangerous society to the good Government of Kenya. If these are the activities of the *Mungiki* sect, they deserved to be banned. If they can threaten women in leadership the way they have done, it is only proper that they be put where they belong.

Mr. Temporary Deputy Speaker, Sir, it is important that the Attorney-General also takes action against the

editors of the *Kenya Times* newspaper for having circulated an obscenity to the Kenyan public. I hope the Attorney-General will take action against them through the Obscenities Act. This is an indecent statement that has been circulated on our streets, and I hope action will certainly be taken.

Mr. Temporary Deputy Speaker, Sir, this Bill is long overdue, having seen atrocious cases of domestic violence, which are also clearly defined. We are talking about physical abuse, sexual abuse and psychological abuse, which include intimidation, harassment and damage to property. I do not see any hon. Member in this House who will be opposed to taking measures in this direction. I do not see anybody opposing this important Bill because more than 55 per cent of the Kenyan voters are women. This Bill will protect the Kenyan women and men. If violence is unacceptable on our streets, it should also be totally unacceptable in our homes.

Mr. Temporary Deputy Speaker, Sir, we have got enough laws in this country which can separate couples that do not want to live together. They can take divorce proceedings or what is referred to as a "quickie". It only takes 24 hours, and you would be separated. I take exception that somebody can be murdered or burnt. I have seen photographs in our newspapers that make our bodies reel with anger that, that kind of violence can be done by people living in the same house. It is important that the Bill is endorsed by this House and accepted by every man and woman. Every man who is a father of a daughter, and a son of a mother should accept this Bill. We are not talking about the wayward people. We are talking about people of great value to this country. This country cannot continue without the protection that they deserve. Maybe only about 3 per cent who are going to be affected by this Bill are the people who really deserve punishment because they can very easily divorce their wives if they do not want them. What is the problem? If it is dowry, you could be assisted to get a second one. You could also divorce your husband. It is going to work both ways. Everybody here who is subject to violence needs protection. That is why this Bill becomes very important. Unless we are going to be stealthy, clever and you want to have a go at it in the evening, in the darkness of your house, there is no reason why you should be allowed to have that luxury or violence.

Mr. Temporary Deputy Speaker, Sir, what is proposed by this Bill is the setting up, under Clause 43, of a fund that is going to give necessary assistance to people who might find themselves driven out of their homes. They can put an application which is going to be based on the necessities of life that they might require. We are talking about people who might want to buy medicine, rent a home, seek medical treatment and who might also need counselling and legal services. The creation of a fund in Clause 46 is very important. It is going to make sure that our homes do not become a dead end or a blind alley. It is going to make our homes what they are supposed to be; a place of comfort and protection. A protection order can also be issued to a spouse or a person who is the subject of domestic violence. They really deserve that protection. They do not deserve to be immolated or burned. That is totally unacceptable in this time and age. There is an easier way of separating and an easier way of living apart. But we do not take it that the law should be taken in the hands of a few people, who do enjoy it.

One aspect that I must talk about is the question of marital rape. It is very important in this day and age; let us be realistic. Marital rape could also lead to the spread of HIV/AIDS; it is possible. I do not think that should happen in our homes. It is important that, as it has been agreed in the Bible and elsewhere in the law, sex must be mutual. Marital rape is going to be punished under the Bill. It is important that, that action be taken.

Mr. Temporary Deputy Speaker, Sir, my regrets are that the issue of the female genital mutilation has not been taken up. It is something that can still be taken up under the Bill. That is physical abuse under whatever name that it passes. In our own homes, where we come from, under whatever guise it passes, it is an unacceptable customary practice that should be stopped. Even though I have been told that I am not in the right position to say that there are no medical sexual benefits to be obtained from that practice, I would want to reiterate again that, I am in a position to say that I have not been convinced in any way. There is no medical evidence to confirm that there is any benefit to be achieved from female genital mutilation. Therefore, that is a practice--- I can see it is still coming up, even though it comes on and off. It is happening during the holidays when people close up during Christmas. But it is totally unacceptable. That is a female assault. It is called female genital mutilation.

If you ask me, if the kind of injury that is inflicted on the female person is inflicted on anybody's finger here, I know they will reject it and fight, and that would be assault. There is no reason why, if it is inflicted on the more delicate part of our bodies, it becomes acceptable. I know that Parliament has deliberated on this issue previously. That is something that really needs to be enforced because we know that the agents of that practice are very few. They are living in the dark parts of Kenya and they are called to duty at a fee. That is something that needs to be discouraged in this country, because we have known that in terms of womankind in this country, it has no benefit. It is a complication in their later lives. There might be some psychological pride in going through the practice, but certainly, physically and sexually, it is damage that is inflicted on the person.

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

Dr. Anangwe: Thank you, Mr. Temporary Deputy Speaker, Sir. Let me say from the outset that I support the Bill! I support this Bill to express solidarity with the Mover and the Seconder. Secondly, I do not want to get into

trouble with the womenfolk because they listen to what has been said here. Last week, a paper erroneously reported that I had ganged up with Mr. Ndicho to sabotage this Bill. I did not even have the opportunity to make my contribution. I do not know where the paper picked that story from, and in the process, I got into trouble with the womenfolk in my proximity! The third reason why I am supporting this Bill is because it has been argued that there is the Penal Code that outlaws domestic violence, notwithstanding that this particular Act has existed for a long time, but domestic violence persists. That underscores the fact that, that particular legal measure is inadequate. What this Bill is trying to do is to seal that particular loophole, so that, in future, issues of domestic violence do not become part of our political agenda any more. So, I support this particular Bill.

The objects of this Bill are very clear. Indeed, one of the objects is to recognise that domestic violence in all its forms, is an unacceptable behaviour. Whether it is sexual abuse, physical abuse or psychological abuse, this particular Bill is saying that, that behaviour is unacceptable. Whether it is women or men, their physical structures were never created, particularly for women, for violence. They look delicate and weak. So, sometimes, when the approach and formula on how to beat a wife or a woman has not been prescribed, people go overboard in the way that they go about beating their wives. They cause a lot of damage to the physical being of women. I agree that there is need to bring in the State to intervene, because so far, it has been left only to the society to handle that particular problem. It seems that this particular problem is not being redressed. So, I support the idea that the courts and other State agencies should be provided with an opportunity to intervene.

However, I have very strong reservations with the kind of legal protection and relief measures that have been provided here. I find them a bit drastic, and it may be necessary, at least for, the Attorney-General, to rethink whether we can have stop-gap measures before we reach that stage of protection orders. Those particular measures were prescribed without the input of men. The men were not adequately consulted, and yet they are stakeholders. It was a contribution of a task force on women by FIDA. So, I was just curious. Supposing men of variety had been involved in this particular discussion, what kind of Bill would they have come up with? These particular measures have not been integrated. It is very imperative that if this law is going to be operational, at least, the good and bad viewpoints of men should be listened to so that a mid-point can be developed, so that the law does not become a dead letter.

Mr. Temporary Deputy Speaker, Sir, secondly, in relation to the legal measures being proposed here, I may not be able to defend them in front of men in Butere, particularly if I am going to say very brazenly that a wife can turn up with a protection order in addition to the marriage certificate, and each time the man wants to consummate the marriage, he is being threatened with a piece of order called a protection order for sexual abuse. That, in itself, can cause us problems in our constituencies.

(Applause)

Or when it is proposed that if you beat your wife, you will be fined Kshs100,000 or go to jail for six months; how do I defend that? I agree that this particular problem has to be addressed, and if it has to be addressed effectively, we can borrow a leaf from the many men and women who do not engage in any form of domestic violence.

Mr. Temporary Deputy Speaker, Sir, when the Attorney-General made his presentation, he was very clear that of all the women who were interviewed, only 51 per cent acknowledged that they had experienced domestic violence, but 49 per cent did not indicate. That means that a significant portion of Kenyan men and women do not engage in forms of domestic violence. That is where we can build a case from. Why is it that the 49 per cent do not experience this domestic violence without a law? The law did not exist, but the couple found it necessary to adjust mutually to each other and they have continued to live together peacefully. Let it not be assumed that every man batters or rapes his wife, and yet it is not true that all of them or 51 per cent are doing so. That is an indicative figure. Let us build on the experience of the 49 per cent who have not witnessed this. There was no law and they did not resort to the courts. They sat together, got married very well and, in the process, agreed on the ground rules mutually, socially and without the intervention of the law and that is how it is supposed to be.

Mr. Temporary Deputy Speaker, Sir, given that kind of experience, I would propose that as the Attorney-General rethinks on the legal measures, he should build upon the good experiences and lessons from the couples that do not engage in domestic violence. Let us find out why they are not fighting. Probably, we can integrate that particular experience with the requisite provision in this law. My suggestion would be that before we can even resort to the protection orders, or before we can even reach a stage where a man or a woman is being condemned and jailed for six months or fined Kshs100,000, there should be some intervening period where the church or some NGO that has been empowered and its role has been integrated in this Act, can come in to do counselling and reconciliation. Many of the people who engage in domestic violence sometimes do so out of ignorance. They do not know that they are offending the law. They believe that is the way things are supposed to be culturally. That might be the case for some of them.

Mr. Temporary Deputy Speaker, Sir, if the Attorney-General is able to achieve the objects of this particular

Bill, I think it is a desirable situation. Even those who engage in domestic violence are embarrassed about it. Supposing you are in an estate in Nairobi and you begin a fight in your house and your wife screams so loudly; you will be a spectacle the next day because people will be murmuring, backbiting you and saying that you fought last night. It is the same issue in the villages. A man who has fought with this wife and it was heard publicly, probably in the evening; they will be both embarrassed the next day for having engaged in that kind of exercise since people will be talking about them. Many of them will even counsel you and tell you that this is not right. So, even those who engage in domestic violence are sometimes forced by circumstances. If it were according to their wishes and desires, they would not wish to beat or offend their wives, but that is the reality.

Mr. Temporary Deputy Speaker, Sir, it would be an over-simplification on the part of the Attorney-General to assume that by enacting this particular law, therefore, he has proscribed domestic violence. We may have this law in place, but it will be a dead letter unless we also emphasise the social dimension and the root causes of many of these problems. Many families and marriages in the rural areas and many places can be placed on a continuum. One end of the continuum is extreme violence, and the other, of course, is freedom from domestic violence, and in-between we can have many categories. On the extreme end, it is not even a question of why a husband batters his wife, but it is total warfare. If you begin a fight, do not expect to have it easy if you are a man since a wife can also fight back and you may end up killing one another. Of course, I recall the case of Seth Adagala who lived with his wife very well, but one day he went to a bar and on coming home, he provoked a fight. The wife fought back and she ended up killing him, and it was not a one time event since it had been frequent. That is one example and there are many.

Mr. Temporary Deputy Speaker, Sir, the second category is where a husband beats his wife or vice versa. This is a one-sided affair. The third one is where people do not fight, but they engage in cold war through torments and threats. The wife threatens the husband with departure and the husband threatens the wife with dire consequences, but they do not engage in brinkmanship. It reaches that extent, but it continues. The fourth one is a category of marriage that is like *laissez faire*. Here, the woman and the husband are both free and it is only the children who bring them together. You are still staying together because of children. The rationale is children, otherwise, if the wife wishes to go and have good time, then she goes. The husband can sleep out and come the next day. There are such marriages, and that is mutual adjustment. Of course, it may not be a desirable kind of marriage anyway. It has already broken down and it is only that the couple are not courageous enough to go to court and seek divorce or even to separate.

Mr. Temporary Deputy Speaker, Sir, the last category is the born-again marriage where the couple, each time they want to enter into a situation of domestic violence, whether psychological or physical, they leave it to God by saying: "Mungu ashaniponya; halleluya", and it is the end of it. They do not go far. So, it is a born-again kind of marriage. So, the Attorney-General wants to tell us that he wants all these types of marriages to collapse so that we can all begin to behave like born-again couples, and we do not intimidate our wives. These are desirable situations, the way it used to be, probably, in the Garden of Eden. That is the way things were supposed to be, but when Adam tasted the forbidden fruit, things never became the same. It has been a life full of hassles for many people.

Mr. Temporary Deputy Speaker, Sir, the root causes of domestic violence must be addressed and they are many. I recall one day, in my homestead in the rural area, where a neighbour started chasing his wife, wanting to settle scores. The wife was fast enough; she was young and so she ran into my compound. Realising that it was mheshimiwa's compound - you cannot extend the fight into my compound - the man did shout at the gate: "Haya, mheshimiwa huyo atakuoa", and he went away. What are we going to do about those cases? I do not want to ask the Attorney-General the same question, whether he will marry these wives. That is the issue I was trying to allude to. Well, men are not accepting the measures we have put in place. They are unhappy and they would chase away their wives and tell them: "Okay, if the Attorney-General has passed this particular Bill, let him be your husband. Go to the Attorney-General's Chamber and become his wife."

(Mr. Wako gestured)

The Attorney-General is telling me he will welcome them! This is on a light note.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, the major causes of domestic violence relate to infidelity or adultery. This issue must be addressed if we are going to solve this problem. It is not just a legal problem, but also a social one. One of them is inadequate family resources. The couples do not have enough and because of social stress, the problem ends up extending to the marriage. The other one is personality and compatibility. Yes, the man may be a nice husband, but the wife is a "T9". What will happen? A "T9" is a wild dog which bites even unprovoked. The man may be very bad, but the wife is very good. What do we do? How can the law sort out this?

Alcoholism is another cause. I do not know how this law will deal with this particular problem. A man leaves his home a very fine man and goes to drink chang'aa. Once he is drunk, the only way to project his frustration is to "hammer" his wife and it happens in the rural areas. In the evening, you hear women screaming in the villages. How will this law help us?

In my view, the last cause is the cultural perception. A man believes that the only way you can demonstrate that you are a real man who is managing his homestead very well is to be strict and ensure discipline, particularly if you are in a polygamous relationship. I have one wife, but what I have learnt is that managing many wives requires one to be a good politician. Otherwise, it becomes impossible and there can be a breakout of war. The best way, instead of going to the State to seek police intervention, you should ensure that there is law and order in the homestead. You are the policeman. These circumstances are mediating between this law and domestic violence. Unless we address these circumstances very adequately, the law may be very good, but finally, it will be a dead letter.

Coming to the Bill, I am intrigued by the definition of domestic violence. In Clause 3(2), violence means physical abuse, sexual abuse and psychological abuse. These are terminologies that can be misunderstood by many, because the term "abuse" in English, according to the Collins Concise Dictionary means "to use incorrectly or improperly". So, if we are saying that violence means physical abuse, sexual abuse, or psychological abuse, it presupposes there is a correct usage. Have we defined this? Unless we define this based on the understanding of a variety of stakeholders, we might experience problems. Let women alone not just decide that this amounts to sexual abuse or physical abuse. A man who slaps his wife twice; one side of the face and the other, thinks it is not physical abuse. He will say: "How can you say I abused her? I was just trying to remind her who I am; the authority relationship in this house." I am just being a social analyst and I am not passing judgement or prescribing it.

(Mrs. Mwewa pointed a finger at Dr. Anangwe)

I am being threatened here with physical abuse by Mrs. Mwewa. It is right inside here and I need your protection, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Mrs. Mwewa, are you threatening the hon. Member?

Mrs. Mwewa: Mr. Temporary Deputy Speaker, Sir, I was only looking at him and listening keenly to him explaining how a woman can be slapped twice. There is no need of slapping your beloved wife. The way forward is just to give her love and other things.

(Laughter)

Dr. Anangwe: Mr. Temporary Deputy Speaker, Sir, you did not see what she did. She pointed a finger at me and in an African setting, if somebody points a finger at you, the next cause of action is physical. That is why I was a bit cautious. Let Mrs. Mwewa not misunderstand me. All I was trying to say is that these terms in proper English can mean different things to different people. All I was trying to say is that, to one man, graduating from total war to two slaps may not be understood to mean incorrect use. He thinks that is just enough. He will say: "I never used a whip." If you went to court, you would hear all sorts of arguments being put across. Even issues of sexual abuse are not properly addressed. I am very surprised and intrigued by the Attorney-General's approach to this, as well as Mr. Osundwa, knowing very well where they come from; the kind of culture on these issues and the thinking.

Mr. Temporary Deputy Speaker, Sir, those of us who are liberated and educated are differently socialised. For those who come from the rural areas, and I beg for your indulgence, the perception is that a woman never gives in easily. She must test the prowess and the will of the man to go for her. She may be your girlfriend, but when she turns up, there will be a pretty fight. How do you deal with such people if that is their understanding? We may talk about it here because we are educated, but what about the rural women who believe you do not just say "yes" to men? Some people believe that when a woman says "no", she means "yes". This phrase has even been sung in songs. We are just trying to understand how to deal with such perceptions that are very rampant in the rural areas. These are the social issues that we have to confront and address exhaustively before this law can find space in the social milieu in this country.

What I may perceive as sexual abuse may appear to be normal behaviour to a rural person. These are issues we have to confront. Psychological abuse includes intimidation, harassment and damage of property. I agree that we can live peacefully in our homesteads without all these. This is within the context of the family. However, this can also be taken further. The assumption here is that it is the men who are perpetrating these acts of domestic violence. I would like to understand this from the Attorney-General: We normally see women within the streets of Nairobi dressed in a very provocative manner, wearing attire with very high slits called "Windows 2002". How do we describe this

behaviour? Is this not psychological abuse, particularly to the young men who cannot take this? We are not encouraging the kind of behaviour perpetrated by young men like touts who tend to strip naked such ladies. That should not be encouraged, but we must also be able to understand the provocation because of their perception and where they come from. It may be okay to me or anybody else to see a woman in a high slit running up to somewhere near the thighs, but how about the rural person who is not used to it? He undergoes a cultural shock and starts wondering what is happening in this city. Has the city gone mad?

Mr. Temporary Deputy Sir, if this law and its definition is to be operative, we need to integrate a schedule to this particular Bill so that men and women are able to understand that sexual and physical abuse includes slapping a wife. This will ensure that a person who thinks that slapping your wife once or twice is not physical abuse does not understand it that way. If it is sexual abuse, a woman may understand it as such, but a young man who is newly married may go overboard with sexual intercourse and does it so many times. We have also to define that it is the woman to say what she really wants.

An hon. Member: What section is that?

Dr. Anangwe: I am dealing with social issues that are pertinent to this particular Bill. Unless we address these social issues, we are wasting our time. That is why I am asking the Attorney-General to develop some stop-gap measures in-between. He should create a mechanism like a committee of elders or churchmen before either of the spouses is allowed to go to court. This will ensure that they are summoned by a church minister, who will sit them down and tell them that according to the Bible and the law, this is not allowed. If either of them persists, then he or she can resort to the court.

With those remarks, I beg to support.

Mr. Munyasia: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill. I want to say from the outset that I abhor violence in the homes. If anyone is going to batter a woman or a man in the home, there must be harsh enough penalties to teach such a fellow a lesson. However, in spite of my abhorrence for violence, I will oppose this Bill like a real man because we were told here last week that real men will support this Bill. A real man is a real boy who has matured into adulthood. Women know who a real boy is when he wakes up early in the morning to go and pass water. When that one grows up, he becomes a real man. A real man is the one who recognises his rights, but also accepts his duties and responsibilities, and is unwilling to compromise his position, especially as head of the family.

Last week, when Mrs. Mugo said that God created man and woman in his image, I said: "No. According to the Bible, a copy of which I have, he only created man in his own image." Mrs. Mugo then said---

Mrs. Mugo: On a point of order, Mr. Temporary Deputy Speaker, Sir!

Mr. Munyasia: Mrs. Mugo then said it was in Genesis Chapter 2, Verse 28. I checked the Bible, but Chapter 2 of Genesis ends at Verse 25. Therefore, Verse 28 does not arise.

Mrs. Mugo: On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Munyasia: Is it a point of information or point of order?

Mrs. Mugo: It is a point of order and information. When I quoted the verse I said: "I believe it is this chapter---" It is Genesis Chapter 1, Verses 25, 26, 27 and 28. Could I read it because it is exactly---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Yes, Mr. Munyasia!

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, I was quoting her from the HANSARD, but Chapter 2 of Genesis does not have Verse 28.

A real man is somebody like Moses Lukhale, an old man aged 102 years, whom we buried in my constituency three weeks ago. He was the same age as Queen Mother Elizabeth of the United Kingdom who was also buried at around the same time as Mr. Lukhale. The Queen Mother died, leaving only ten offspring. However, Moses Lukhale had six wives, 32 children, 550 grandchildren, 821 great grandchildren and 67 great, great grandchildren. This brings us to a total of 1,450 offspring!

An hon. Member: He was a real man!

(Laughter)

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, if you are a man with such a large number of people depending on you as head of the family, you will definitely require authority. Authority means exercise of power. Exercise of power includes the threat of punishment. The State is a family on a large scale. We normally allow a state, even a peaceful one like Switzerland, to have a police force, even if they do not have a standing army. All other states have an army, navy, police force, and GSU and we do not condemn them for that. We do not say that they are exercising violence. In order to keep law and order, you must have recourse to using some limited force.

How do you exercise your authority as head of a family without any threat to the use of force? A little slap is not battering. When people talk of battering, I know they are exaggerating so that you get scared about what is happening in homes. A little slap to a partner is merely a way of saying: "I am unhappy about this". If you do not ever show that there are certain things you are unhappy about, your partner will never know how she should conduct herself. The Attorney-General admitted that the Bill before us was drafted by a partisan task force. He said that the task force was chaired by Lady Justice Effie Owuor, and that it was composed mostly of women and a few men who are gender sensitive. So, he admitted that the Bill before us is partisan; other people were not consulted. That position is in the HANSARD. I have been following debate on this Bill.

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. I did state that the task force appointed to review laws relating to women was chaired by Lady Justice Effie Owuor and that most of its membership comprised of women but there were also men. I also did state that the task force travelled throughout the country and held meetings at the provincial level as well as at the district level in some cases. The meetings were attended by men and women.

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order?

Hon. Members: That is not a point of order! He is wasting time!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, is the hon. Member in order to mislead the House by saying that I said that it was only women who contributed to the drafting of this Bill when, in fact, I did say that many men did also contribute to this Bill?

An hon. Member: Bibi yako yuko wapi?

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, it is recorded in the HANSARD that the Attorney-General said that only men who were gender sensitive--- I do not know what that means. So, the Attorney-General knows how he selected those men.

Mr. Temporary Deputy Speaker, Sir, the task force, which was partisan, drew the first draft Bill. He admitted that the Federation of Kenyan Women Lawyers (FIDA) also drew another draft Bill. So, this Bill is a marriage of the FIDA and the task force draft Bills.

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

Mr. Munyasia: But this position is in the HANSARD. We heard him expound it.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I rise on a point of order because these are issues which arose at the conclusion of the debate last week. I did state that civil organisations, including FIDA, also contributed to the work of the task force.

An hon. Member: Bw. Wako, unapoteza muda wa Bw. Munyasia! Wacha aendelee!

The Attorney-General (Mr. Wako): The key word in that statement is "including". I did not say that FIDA drafted another Bill.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Proceed, Mr. Munyasia!

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, the Attorney-General is afraid that I am going to lump him together with the rebels, who want to change the laws of this land to suit the interests of a small section of the population of this country and outsiders. Otherwise, what he said is contained in the HANSARD.

I was saying that since the work that led to the drafting of this Bill was partisan, this House is not bound to support work which has not been fairly conducted. The task force, FIDA and the Attorney-General needed to understand the values and norms advocated by traditional society with regard to family issues. Recently, a colleague of mine had a son who wanted to marry a girl from another community. One evening, he took three or four of us from here and told us: "Let us go and see the father who is giving my son a daughter". So, we went. This is to emphasise that traditions are still operative. The man looked at us, laughed and said: "Is my daughter going to Members of Parliament? Am I giving my daughter to politicians? You go back, get members of your clan, and let them come and ask for my daughter's hand." That was precisely what we did later.

I want to emphasise the point that in Africa, and among Kenyan societies I know of, it is not individuals who marry; it is clans which establish relationships. That is why we give bridewealth. The bridewealth given by one clan to another is then shared amongst members of that particular clan. The reward is later, in a way, returned to the first clan that gave it. So, these clans are the ones that have an interest in the peace of the home of the two people who are joining together. That is the way things have been. There is no clan which wants its daughters battered. Equally, there is no clan into which somebody's daughter has been married that wants that particular daughter battered. There are enough precautions that clans take to ensure that there is peace.

Mr. Temporary Deputy Speaker, Sir, this particular Bill involves people who are not interested in the peace of the home. The Bill seeks to bring in the police and the courts. The courts are not interested in the peace existing between the two married persons. The clans have been taking care of this aspect. To illustrate that clans are very bitter

about wife battering, I would like to give a deterrent measure which exists amongst the Bukusu, which is my community. If one hits his wife and she loses a tooth, he will be required to pay a certain number of livestock for that tooth. It is one's clan which pays the livestock. Since members of a clan would not like to pay, they will make sure---

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform Mr. Munyasia that among the Somali people, if one kills his wife, he will be required to pay 60 camels. If he kills a man, he will be required to pay 100 camels. So, I support Mr. Munyasia's argument in that regard.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, among the Bukusu, if one gorges out his wife's eye, one's clan will be required to pay compensation for it. I am now 53 years old. All my life, I have witnessed only two deaths of women caused by their husbands. One of the men was my relative. He had to pay 58 head of cattle to the clan of the woman. So, it is not that the clans have abandoned this responsibility. They still take responsibility.

Mr. Temporary Deputy Speaker, Sir, what other people must realise is the fact that if there is a dispute, what the woman has to do is to report to close relatives of her husband that the man is not behaving well. His relatives might then intervene. If the dispute persists, she will report the matter to her people. There is no man who would like his misbehaviour reported to his in-laws, because he will lose self esteem. So, he will make sure that he does not do such abhorable things to her to justify her running to his in-laws.

To underscore the fact that marriage is between clans and not just between individuals, at home, when you lose your wife, the clan from which you got her is willing to propose that it gives you a younger sister of your former wife. That is meant to maintain the relationship between the two clans. If you, as the man, dies, then the woman will be inherited by members of your clan. That again is evidence that the clans are the ones which want to maintain the relationship between themselves. That is the important aspect of our culture which the Attorney-General would have been informed of if he had not relied on women and gender sensitive men.

(Applause)

Mr. Temporary Deputy Speaker, Sir, last week, I heard some men who are supposed to be gender sensitive making fun of adultery. One of them said: "If a man has to be compensated for adultery committed by his wife, what harm has been done to him that qualifies him for the compensation?" Then a professor rose and said: "That is a very good argument!", and I said: "Is that what it means to be gender sensitive? Do you play about with serious matters such as adultery?" This is because if a man is going to find his wife with another man in his bed, what is going to happen? The man would be eaten by passion, and he would kill. If he kills, that is called manslaughter, because of the passion that the man would be acting under. This Attorney-General should know that.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, we cannot take this lightly. From days long ago, when a wife commits adultery, the husband is said to be "cuckold"; that is an English word. That is, you suffer in loss of esteem among your colleagues and when you walk, you are very weak because you are the man whose wife is being laid down by almost everyone.

(Applause)

But we cannot take matters like these lightly.

Visitors are allowed to go and see boys any time in their boarding school. But it is different for a girls' boarding school. Usually, when they say that the opening day is 2nd May, a boy may come even on 3rd May, and the school's authority would not be bothered about that. But when a girl comes late, the authorities would order her: "Now, go back home and come with your parents!" Why? Because they know that girls cheat; they may not be coming directly from home. They may have passed elsewhere!

(Laughter)

So, even when they are young, they are known to be cheating! We are told that our wives would want to come to our homes at 3.00 a.m., and we should not ask them why they do that!

Mrs. Mugo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to continue abusing women and girls, when we know that this law is not made for them only? This law talks about family protection, and it includes the man. When a man commits adultery, who disciplines him? We are talking of a law to

protect the family, and not just the man! So, do not start confusing the law.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mrs. Mugo! You have made your point!

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, you can see Mrs. Mugo wants to talk all the time when she had her time last time. But I was merely saying what society observes; that, you have got to be very careful with girl-students because they cheat. So, when they grow up, how do you know that they are telling you the truth when they come home at 3.00 a.m. and they say that "they have been having a long drawn out meeting?" It is again natural that you would suspect. But it is not only men who suspect. Even the women suspect their husbands when they come home late. If you go home twice or thrice at 2.00 a.m. or 3.00 a.m., your wife, of course, would be bothered. Mr. Muite said that, indeed, she would be right to deny you sexual favours if you come home at about 3.00 a.m.. This is because she would think that you must be coming from someone. So, what is wrong with a man thinking that his wife must be coming from someone?

Mr. Temporary Deputy Speaker, Sir, our society expects that when you go into a marriage relationship, you are not going to draw the rules. You are not going to negotiate with me. Society expects that you would be home early. If you are not going to be home early, please, let me know that, that day you are going to come a little late. So, that is normal things that---

Let me now go to the Bill. This Bill, right from the definition of violence, shows that it is not meant to protect the families. That is not what clans would advocate. Besides physical and sexual abuses and whatever--- Dr. Anangwe has explained it very well; that, if it is an abuse, then, what is it that should be tolerated? Beyond what extent would you say that this is abuse and this is legitimate? That is not explained! But what is most disturbing is in Clause 3(c) which says:-

"Psychological abuse, including, but not limited to---"

That is what disturbs me. So, they have given here some five areas: Intimidation - without explanation - and I do not know what that is; harassment, damage to property, threats of physical abuse, sexual abuse and threat of sexual abuse! I do not even know what that is; or, psychological abuse, *et cetera*.

I had the opportunity to talk to some of the ladies. I asked them: "Then, what are we going to be left with to keep you people in control?" I said that in that case, then, we would just be quiet. So, I come home, and I know that if I move my hand towards my wife, she would say that I have threatened to beat her. That is threat of physical abuse! What about if I come home and keep quiet? I was still told that, that is part of violence. That is what they are talking about.

An hon. Member: Even keeping quiet?

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, I was told that if you keep quiet for a day or two or three, your wife can go for protection order and evict you from home. Silence is also being condemned here. If the Attorney-General is honest, he would admit that it is included in the things that he is saying "but not limited to."

(Laughter)

How can we say that the man cannot even use silence to cause concern in the home? I said that, that is one area that the clans would not condone. You cannot say that a man would not threaten, or intimidate. In fact, I remember that a Psychology Professor in the University of Sydney, Australia, after a long study - not like this one of the task force - found out that in homes where there has been an occasional slap, it allows the woman to tell you all she has been thinking about you, but which she was hiding you from; because she feared how she would start. If you give her a slap, she would tell you everything now. She would also feel good, and that those homes, in fact, are healthier than those where there is no slap. For me, that slap is not battering the wife. In fact, if you just throw a slap, and it does not touch her, that is enough to make her feel that you are man. If I would want to express that I am unhappy about what she was doing, I would say: "*lhi!*," then, you would have got the point because we must be allowed to do that.

Mr. Temporary Deputy Speaker, Sir, we are told in Clause 5 that this is "to reduce and prevent violence in domestic relationships." This is what this law is meant to do, but the same Attorney-General says that the task force found out that men are almost exclusively the ones responsible - so do not rise - for violence in the homes. I say no! In fact, if you are familiar with what happens in the homes, sometimes what you call murder is not an accumulation of those little beatings and slaps. You might quarrel over something; maybe, you say that these children have not eaten, and then your wife says: "Children! Children! Are you able to sire children like these ones!" Then, as a husband, you say: "Can you repeat? What did you say?" So, when she repeats it with impunity, the man will always tell her to get out of the home. That is how those things happen. In fact, we have been told that sometimes, when a man gets murderous, he is out of his mind. That is a sick man, and he is not the type we can legislate about. That is why I disagree with Dr. Anangwe when he says we still have domestic violence in spite of the fact that this is covered under the Penal Code, and that, it is evidence that the present law is inadequate. That is not correct! The persistence of an offence is not

evidence that the law has failed. There are thieves in this country, in spite of the laws we have against theft. It does not mean that the laws we have are inadequate!

Mr. Temporary Deputy Speaker, Sir, when an order is given by the courts, a man may be prohibited from stepping in that house, or even that land, where the woman lives. We are mainly a patrilineal society. When a young man marries a woman, the home of the two will be on the man's land and that is called a patrilocal home. So, if I take a wife and put her on my land, then I want her to be incorporated into my clan. She loses her identity and has got to be called the wife of such and such a clan. That means I have incorporated her among my people. It is ironical that the law says: "You should now vacate." The majority of the people will have no alternative! So, my question to this Attorney-General is: Where will the man go to? When I was talking to one of the ladies, she said a man could go to one of his brothers' houses! I asked her: "What; a grown-up man like myself going to stay with my brother because my wife, whom I brought from some other clan has obtained a court order?"

Mr. Temporary Deputy Speaker, Sir, the last thing which I want to challenge this Attorney-General to do, and this is what the task force should have come up with is this: They should investigate and monitor the state of those families that have had to refer their disputes to courts of law and see whether there was greater peace after settlements in a court of law. Last week, hon. Haji was saying: "*Haki ya Mungu*, If a woman is going to take me to a court of law, she should not come back to my home." That is what most men would say. So, if most men are going to swear that if their wives take them to court, instead of their clans, they will not come back, are we helping marriage in any way? Are we helping the family in this particular structure, and if we have children having a single parent, those are the discipline problems? I oppose this Bill because I want the family to be stable. I want the clans to be continually involved in keeping couples together!

With those few remarks, I beg to oppose.

The Assistant Minister for Finance and Planning (Mr. Lomada): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill. I will not state whether I support or oppose it. But at the end of it all, I will make myself clear as to where I stand.

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

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

Mr. Temporary Deputy Speaker, Sir, in as much as we would like to curb domestic violence in this country, we should understand whether this is a new or an old phenomenon. My colleagues have contributed much on this Bill, and I may only have two or three points to make.

Mr. Temporary Deputy Speaker, Sir, domestic violence has always been with us, and its prevention is our duty. It is the duty of every man and woman who is married to prevent domestic violence. Violence in our society is not something we should condone! But it depends on the degree of violence. To what degree is any particular incident of violence realised? The Attorney-General should be able to tell us the degree of violence that is punishable by law! We may have to punish violence that leads to death, or that which has inflicted too much pain. But corrective measures in the family should not be understood to mean violence. That is where we should come out clearly! We should only ban those aspects that lead to death! If it is a corrective measure, even if it means wife-beating or child-beating, it all depends on the degree of pain. This is one area where the Attorney-General should shed more light, so that when we are talking about it, we know what we are discussing.

Mr. Temporary Deputy Speaker, Sir, wife-beating is not a healthy thing if it inflicts a lot of pain or death to the concerned person. According to the Pokot culture and customs, if you beat someone to death; for instance, your wife, a man or child, you pay heavily. Even your clan will also have to pay some compensation. The way they do it according to the Pokot culture is that, the relatives of your wife will come and burn all the houses belonging to your clan. They will take all the cows, goats and sheep and slaughter them. In fact, they do not do it in a normal way. They cut a cow into two! Someone carries one half while another one carries another half! In fact, that kind of punishment is even harsher than the punishment which is normally meted out by the courts of law. That kind of punishment is more severe because it even affects members of one's clan! So, we do not have to throw away our customary laws. We should also incorporate our traditional laws, so that when we are talking about violence, we have those traditional laws in mind.

Mr. Temporary Deputy Speaker, Sir, violence in our society also affects men. As has been said, there are women who beat their husbands to death. So, both sexes should be protected in this case! I have heard two or three hon. Members say that this happens. It is also important that both sexes are protected.

Mr. Temporary Deputy Speaker, Sir, children also need to be protected from domestic violence. Members of the family need to be protected. We have heard over the radio several times of incidents of children being punished by their parents to the extent of being killed. This is serious. If this is happening in our society, we cannot condone it. This situation must be rectified. I think it is high time that we took education to various parts of our country and told the people that we should not punish our children violently, to the extent of killing them. We must describe domestic violence and come up with the way forward. What is the norm or the standard that we must use to describe domestic violence? It has been said that domestic violence can be in the form of sexual abuse and harassment. Even touching some female private parts has also been categorised as sexual harassment. This is unheard of in many parts of our country. So, we need to really see to what extent certain behaviour can be allowed. I would suggest that, when we go to the Committee Stage, we should amend a number of provisions in this Bill. I hope that the hon. Ladies will also agree to these amendments. There are quite a number of anomalies in the Bill that need to be corrected so that men and women outside this House will accept the Bill. Why is it said that the man is the head of the family? This is in our natural laws and also in the Bible. So, we need to have that particular area taken care of and also guarded very well.

As much as we want to protect our families, it is also good to accept some of our customary laws. Some of them are very good. Some of our traditional laws are very important and we do not have to throw them out of the window. They are very important and can be used to solve domestic disputes. I really did not have much to say, but I would like to urge the Attorney-General to accept some amendments to the Bill, so that what will eventually be contained in it will be accepted by every member of this society.

With those few remarks, I want to suggest that the Bill be looked into properly.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support the Bill. I have sat here through several contributions, and I can only say that I am appalled that leaders should give the kind of leadership or the lack of it, that has been exhibited here. Why are we applying double standards?

May I commend, firstly, those who have referred to certain sections of the Bill because it shows that even a few of those who are opposing it have actually gone through it and have come up with the sections that they think need being worked on. But the same persons are applying double standards and reverse reasoning on matters. It is true that we have our traditional cultural norms. We even have traditional ways through which we used to deal with issues, but today, we have forgotten those cultural norms and have codified our criminal laws, so that whoever steals is dealt with in accordance with the law of the land.

If we love traditions so much, perhaps then we should have no laws because our traditional society used to have norms for everything. But society is dynamic and is growing, and that is why the thief is no longer being smoked or rolled down the hill in a beehive without being given a hearing. All that it took was for a thief to gain notoriety in an area, then he would be condemned by the people's court unheard and dealt with and put to death. We have departed from that, and even when you are caught red-handed, you are still taken to a court of law and given a fair chance to give your story. So, we have departed from the traditional norms. So, what is this argument about there being traditional norms to deal with domestic violence? Is this the only area where we should now hang on to retrogressive traditions?

Mr. Temporary Deputy Speaker, Sir, very few families resort to the law in resolving their disputes. Those who go to courts are those who have failed---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to term our culture "retrogressive"?

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I sympathise with hon. Angwenyi, but if he had not been speaking to Mr. Munyasia, perhaps, he would have heard what I said. I would refer him to the HANSARD. What is retrogressive is the thinking of those who are applying reverse and retrogressive thinking to issues that should be viewed with objectivity. I hope I have made myself clearer now.

If we are not dealing with those who offend us in the same way we used to deal with them traditionally, and we are now going to courts of law, are we now categorising and saying that there are situations which should not be taken to court? Very few families resort to court action, and even very few individuals resort to court actions even when they are wronged in a civil matter. People always try to discuss their disputes, but those who are unable to agree or have their friends resolve their disputes even in businesses, are the ones who end up in a court of law. We, therefore, legislate in every area for that tiny percentage which may end up in a court of law.

I practice a lot of family law, and both men and women go to our courts to seek redress, but they are a very small percentage of our population. It is only those people who have been unable to resolve their disputes in any other way that end up in courts. What this law is seeking to do is nothing new. It is seeking to do what every law seeks to do. Firstly, it seeks to consolidate the law in relation to domestic relations, and also to provide the rules that will govern these relations. This law, which is now being viewed as radical, is nothing but almost a replica of the current situation.

I have heard a few people complain that the courts would be in a situation to oust you from your home. Be

informed, if you did not know it before, that even under the current law, we get ouster injunctions. It does not mean that your home has been given over to the person left in it; it means, pending resolution of the dispute so that we may not aggravate forms of violence. At least, one party is excluded while you resolve the dispute. The dispute may be resolved in a manner that the parties continue to live together. If they are not able to resolve to live together, then there will be time for the court to adjudicate on what happens to each individual and family property. I think what we need to know is what the position of the law is today. The law today prohibits any act of violence, be it psychological or otherwise, against any other person, whether man or woman. Therefore, to threaten to cause bodily to a man today, you can be taken to court on a criminal offence of threats to injure. Equally, if you threaten a woman, you can be taken to court! So, there is nothing so revolutionary in this law; we are just pretending that we do not know what is the legal situation today.

Mr. Temporary Deputy Speaker, Sir, the way I see it is that, this law is coming to assist because of the many situations; from the point of view of the victim, it is many situations where the police are sometimes hesitant to deal with family disputes and they say: "*Haya ni mambo ya nyumbani*", and send both parties away. On some of those instances, where the police have refused to listen, we have ended up with people within the family being murdered. This law is now consolidating the other provisions that relate to the protection of the person within the home, so that each person can get redress. I see no reason why there should be so much hullabaloo about the law; but perhaps, there should be because, if you are a perpetrator of violence, obviously, you are going to react from a personal position that the law may end up catching up with you. As hon. Members, we are required---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to cast aspersions or insinuations over hon. Members who want either to oppose or support the Bill? This is a law we are making!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, I will ignore that because it does not deserve a response.

As I was saying, if one is reacting from a personal position and he is a violent perpetrator, he is going to react with fear! But as hon. Members, we are called upon not to merely decide what is good for us as individuals; we are supposed to be broad and see whether it is good for our constituents, not just for our own personal position. So, we are asking whether this law is good for Kenyans.

I would begin with our oath of office as hon. Members. We swear before we take our positions as Members Parliament to defend the Constitution of Kenya. In Section 70 of our Constitution, it guarantees or gives the right not only to life, but to the security of each person. The security of man or woman is guaranteed by the Constitution. When, as an hon. Member, you swear in here that you will defend the Constitution, you have sworn, among other things, to fight for the liberty and security of both men and women, children, the old and the young, in your constituency and in this country. It, therefore, becomes perplexing that a Bill that seeks to guarantee the security of each person within the family is being fought by hon. Members who have sworn to defend it. I am not saying that an hon. Member is not right in pointing out mistakes, but wholesale condemnation of the Bill, and glorifying of violent behaviour is reprehensible, especially at a time when this very Parliament has gone through the Second Reading of the National Commission on Human Rights Bill! What human rights were we then talking about? I could do without these useless interruptions!

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead the House that an hon. Member of this House has glorified violence in the home? Could she be asked to name the hon. Member who has glorified violence, because this is misleading the nation? When we oppose the Bill, we do not glorify violence; some of us have stated that, right at the beginning!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, once again, I ignore that point of order. The hon. Member had his time to contribute uninterrupted, I do not see why it should hurt one's ear to let another hon. Member exhaust her time! I will continue undeterred and say that, it is a shame for any elected leader to glorify violence. If this is the leadership we are offering, no wonder, that is why violence is escalating in this country. As leaders, we should show the way and urge for the respect of the rights of all individuals - men and women - within the home. This Bill has been misunderstood. I have heard contributions referring to the Bill as though it is a women's Bill.

Mr. Temporary Deputy Speaker, Sir, just a casual glance at the Act will reveal otherwise. The Bill talks about any person; it does not talk about women; it talks about both men and women and children! Therefore, if there is a battered man, this his Bill too! If there is a battered woman, this is her Bill! If there is a molested or a battered child, this is that child's Bill! If you are abusing your aged father or mother, in the hope that they pass on quickly and leave you property, this is their Bill too! We have those situations! All we are asking is, can we, as hon. Members, soberly look at this Bill and appreciate each clause, so that we give leadership and we are able to even propose amendments where we think they are necessary? But just glorifying domestic violence under the guise of correction, and even trying to get legal support for it by giving analogies of manslaughter---

In case there is anybody in this country who thinks that when a man finds a wife committing adultery and he kills her, that is manslaughter--- It is, depending on the circumstances. But I want them to know that, equally, if the

wife found the man committing adultery and killed him; equally, it would be regarded as a crime of passion. So, do not quote the law from a position of misunderstanding or ignorance. The law recognises that both men and women are human beings who are aggrieved by human emotions, anger, happiness, passion, name it! All human emotions affect both men and women. So, in certain circumstances, a man who kills a woman or a woman who kills a man, the law may sympathise, depending on the circumstances, and may let you off with manslaughter. It is not an exclusive reserve for men!

In line with our law, which is the position in the Constitution, this very carefully drafted law actually recognises the humanity of each human being and says: "Let there not be violence visited on anyone within the family."

Mr. Temporary Deputy Speaker, Sir, like I said earlier on, very few families will resort to the law. Although we may talk of many cases pending in court, it is very few Kenyans who have sought any sort of help from the courts. Likewise, in domestic violence, it is very few people who will seek remedy. But for those people who have sought remedy, do we want to close the door? Do we want to be so narrow that we say because of our personal perceptions or tendencies, that we shall close the door on the few people who seek redress? I invite hon. Members to look at Section 51 of this very good Bill. It talks about counselling. It says:

"Upon making an order under this Act, the court may recommend either party or both parties to participate in counselling of a nature specified by the court."

Why would the court order you to go for counselling? It is because the court is interested in the welfare of the family. Maybe, the differences are not of a nature that can tear apart the family. So, the court has been given power to order counselling so that the dispute which exists in the family may be resolved. If the emotions and tensions are so high, the court has power to ensure that these warring parties are temporarily separated so that we do not move from one form of violence to the extreme, which may result into murder or grievous harm. So, this is for the few people who are in distress, and we must allow those in distress to seek the protection of the law as ordained by the Constitution. Let us try and understand this law.

Like the Attorney-General has said, the task force on the laws relating to women went round this country for over three years, if I can recall. They went to every province and visited the districts. I did not see anywhere in the newspapers that they spoke to women only. I am aware that they spoke to both men and women. So, what is this hullabaloo that men had not been consulted when the Bill was being drafted? It is just like the Constitution of Kenya Review Commission that is going round the country today. The people who appear before the Commission when it visits a certain place are the ones whom it will listen to. The task force listened to both men and women, and let us not apply double standards; that we want to say now that, that task force was partisan. We have had many commissions which have been composed of men only, but the laws which are made are passed for men and women. We do not look at who passed these laws. We look at whether the law is good or bad. I would like to urge the hon. Members who are opposed to the Bill to rethink, look at it and see that there is no harm in it.

I do agree with one hon. Member who said that the law will not provide a magical cure for domestic violence. The law has never been the magical cure for any ill. That is why, despite the Hanging Act, we still have people who commit capital robbery. In fact, incidents of robbery of late have escalated, and yet we have the Hanging Act in place. If we were to use the reverse reasoning that is being used by the opponents of the Bill, then we would say that because the law does not work, we do not need the Hanging Act and the Penal Code because that law will never cure the crime of robbery. There are some people who, because of their extreme poverty, today, would like to steal for their next meal, but when they remember that they may end up in jail, they chose to beg or do other things but not to steal. So, even though there is a high rate of crime, the law still acts as a deterrent to some extent.

As we go to the root causes of domestic violence, which I agree we need to do, we still need a law to protect victims of domestic violence. As we go into the root causes of robbery and widespread theft, which, as a society, if we want to heal, we must go into, we still need laws to protect victims of violence and robbery. You cannot prefer one to the other. Violence, whether perpetrated by a robber or a person within a domestic situation, will damage the victim in the same way. That is why we have heard several women being murdered. I do not think it is fun that your family or clan be compensated after you have been dispatched to the Maker prematurely. Indeed, if that was the case, we would not bother taking criminals who murder people to the gallows, but we would merely ask for compensation for the families. Once again, let us not bring arguments of culture just because we want to fight certain progressive laws from our personal positions.

Mr. Temporary Deputy Speaker, Sir, I would like to say that this law is merely giving a choice to those people in extreme circumstances, who are in distress and need redress. To the majority who may not need this redress, they will continue living and going to their in-laws when problems arise, and still go back to their families. These are the choices being offered.

If I may refer to this Bill, Section 3(1) clearly reads:

"In this Act, "domestic violence", in relation to any person, means violence against that person---"
This Bill is talking about any person and it is not being specific on men, women or children. This is a Bill for everybody. So, those who had perceptions that this Bill is for women, wrongly, had better have another look at Section 3(1).

If one was to go to the definition of violence in Sub-section 2(3), it means "physical abuse and sexual abuse". In terms of the law, we use the legal dictionary - Black's Law Dictionary or any other legal dictionary and not the Oxford English Dictionary, where "physical abuse" would mean inflicting harm on the physical being of the person and not the exotic things one hon. Member thought it would mean.

Mr. Temporary Deputy Speaker, Sir, it is not the women, the men or the children who go to court who will determine what these words mean. The court of law will determine this. In any law, if there is a dispute about terminologies, they are taken to the judge. If we will have lawyers who are as eloquent as Dr. Anangwe, then that court will have no difficulty in arriving at what is physical abuse or sexual abuse. Psychological abuse is now recognised by our Penal Code. I said threats to inflict harm on a person or threats to kill are recognised as unlawful acts. That is part of psychological warfare. It has not yet damaged you, but puts you in a state of fear. Once again, if there are fears where this definition will lead, the courts will interpret what this exactly means. That is why there are courts of law.

Here, psychological abuse has been referred to as intimidation, harassment, damage to property, threats of physical abuse, sexual abuse, psychological abuse and, in relation to a child, what is referred to in Sub-section 3. Would any hon. Member of this House say that these things should not be prohibited? I can understand and sympathise with the worry about definition, but it is our duty as hon. Members to strengthen the wording. We should assist the Attorney-General in drafting, if we feel that the definitions are too broad. But do we rise here---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Muturi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 7th May, at 2.30 p.m. Ms. Karua, you will contribute for five minutes on that day.

The House rose at 6.30 p.m.