

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 29th November, 2000

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.249*

#### SCREENING OF PEOPLE FROM BORDER DISTRICTS

**Mr. Deputy Speaker:** Mr. Onyango not here? We will come back to this Question later.  
Next Question, Mr Munyes!

*Question No.693*

#### CAUSE OF BOMBING AT LOKICHOGGIO

**Mr. Deputy Speaker:** Mr. Munyes also not here? We will come back to the Question later.  
Next Question, Mr. Gatabaki!

*Question No.381*

#### MERGING OF COMMERCIAL BANKS

**Mr. Deputy Speaker:** Mr. Gatabaki not here? We will come back to the Question later.  
Next Question, Mr. Munyao!

*Question No.472*

#### NUMBER OF MACHAKOS/ MAKUENI STUDENTS IN UNIVERSITIES

**Mr. Deputy Speaker:** Mr. Munyao also not here? We will come back to his Question later.  
Next Question, Mr. Ojode!

*Question No.645*

#### DECENTRALISATION OF NSSF

**Mr. Deputy Speaker:** Mr. Ojode too not here? We will come back to the Question later.  
Next Question, Mr. Kihoro!

*Question No.725*

#### DECIMATION OF LIVESTOCK BY DROUGHT

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

(a) whether he is aware that a lot of cattle and other livestock in the pastoralist areas have been decimated during the current dry spell;

(b) whether he is further aware that many people bordering large estates like Solio Ranch in Nyeri have been arrested and charged in the courts because of cutting grass to feed their cattle; and,

(c) whether he could intervene and carry out a survey of the affected large herds with a view to providing relief grass from the Coast and Western provinces where there are surplus stocks.

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

(a) Yes, I am aware.

(b) I am not aware that some farmers were arrested and charged for cutting grass from the large scale farms like Solio Ranch. However, I am aware that the farms have been having low pasture availability as a result of the severe drought.

(c) The rains are now in progress and the situation is expected to change. Moving hay from other regions may be expensive. However, the Ministry will make arrangements to have a tractor and a baler stationed at Naro Moru Agricultural Mechanisation Centre to harvest and bale grass when it is in plenty for future sale to farmers, in case of emergency.

**Mr. Kihoro:** Mr. Deputy Speaker, Sir, I would like to register my disappointment here because the Ministry did not submit a written reply to me. This Question is of great importance because this Government is pastoralism-led. The Assistant Minister has said he is aware that so many cattle have died during the last two and half years and no measures have been taken to address this problem. We have decimated our livestock and the Government has been helpless towards that end. Could we get an assurance from him that the Government will assist the pastoralists to replenish their depleted stocks?

**Mr. Sumbeiywo:** Mr. Deputy Speaker, Sir, we submitted the written reply to Parliament. I am very sorry if he has not received a copy. I have an extra copy here and I will hand it over to him. We are very grateful to the farmers who have allowed pastoralists to graze their animals in their farms. I would like to thank the people of Nyandarua who accommodated the Maasais---

**Mr. Kihoro:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister should have the decency to admit that no written reply was submitted to me. I cannot be complaining just for the sake of it! This Assistant Minister has a habit of withholding answers to my Questions until the last minute! I just want a written reply, and that is all!

**Mr. Sumbeiywo:** Mr. Deputy Speaker, Sir, I apologised for that inconvenience. But I confirm that a copy was sent to the hon. Member a few days ago.

Mr. Deputy Speaker, Sir, the Government will look into possibilities of assisting the farmers whose animals have been decimated.

**Col. Kiluta:** Mr. Deputy Speaker, Sir, part (b) of this Question implies that some people have already been arrested and charged for cutting grass. Could the Assistant Minister investigate and find out if there were any arrests made? If so, he should make sure that the cases are terminated and the people set free!

**Mr. Sumbeiywo:** Mr. Deputy Speaker, Sir, I will use my past experience as a police officer, to plead with my colleagues, whom I left in the Police Force, to release these pastoralists.

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, hon. Sumbeiywo is one of the best Assistant Ministers we have in this country. So, it is a big pity, and indeed, it pains me---

**Mr. Deputy Speaker:** Order! What is your question?

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, what is the Government going to do in future?

**Mr. Sumbeiywo:** Mr. Deputy Speaker, Sir, I want to deny the allegation that the Government is not serious about the pastoralists. I also thank the hon. Member for complimenting me. However, if we allow pastoralists and all other Kenyans to occupy their ancestral land, I am sure Nairobi would be claimed by one of the pastoralist tribes in this country and we will not be able to demolish buildings in Nairobi.

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. That is not the issue I am talking about. It is about Laikipia, where Turkanas, Samburus and Pokots have invaded people's farms. Leave out the other areas. In fact, I stand here to mourn the late hon. Lotodo because he is the only person---

**Mr. Deputy Speaker:** Order! Order, hon. Ndicho! This is Question Time. If you want to write an obituary on the late hon. Lotodo, you should do it elsewhere, not here!

**Mr. Sumbeiywo:** Mr. Deputy Speaker, Sir, the Government has given those people titles to own the land that they have settled on. I am sure hon. Ndicho has a title deed for a piece of land in this country. So, when somebody has a title deed, that is his legal portion of land in this country. We cannot allow the pastoralists, or anybody else, to trample on anybody's land without permission. But we are also grateful to the large scale farmers who allowed

pastoralists to graze their animals on their respective ranches.

**Mr. Kihoro:** Mr. Deputy Speaker, Sir, I am certainly very concerned about what has happened at Solio Ranch, where one of the Directors is Mr. Charles Njonjo who cannot share grass with farmers. But more important, even though the Government is going to station one tractor at Molo - the way the Question has been answered - it is of no consequence. My concern is about the dozens of livestock which have been lost and owners are selling livestock at 10 per cent of the value in Loitokitok, Kajiado, Ukambani, Pokot, Turkana and Marsabit. What will one tractor do at Naro Moru? The Assistant Minister should think nationally and not locally.

**Mr. Sumbeiywo:** Mr. Deputy Speaker, Sir, I thought the Question was about Solio Ranch and not the entire country. But in the other areas of the country, these tractors and balers for grass are available. To enlighten the hon. Member, the dairy cattle that were there during the onset of the drought were 133,000, and by 30th October, the population was 127,000. This meant that there was only a loss of 5 per cent. So, the farmers were not seriously affected by the drought.

*Question No.353*

REGISTRATION OF *DINI YA MSAMBWA* SECT

**Mr. Deputy Speaker:** Mr. Wamunyinyi's Question is deferred to tomorrow afternoon.

*(Question deferred)*

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

**Mr. Onyango:** Mr. Deputy Speaker, Sir, I apologise for coming late.

*Question No.249*

SCREENING OF PEOPLE FROM BORDER DISTRICTS

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

(a) whether he is aware that people from border districts cannot be issued with identification cards unless they produce verification and screening documents;

(b) under what law the screening and verification for border districts was introduced; and,

(c) what urgent measures he is taking to ensure that people from border districts are treated like other Kenyans in accordance with the Constitution.

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

(a) I am aware that persons from border districts cannot be issued with identification cards, unless they produce verification documents.

(b) The screening and verification documents for border districts were introduced in accordance with Section (A) of the Registration of Persons Act, Cap.107. (c) In view of my answer to parts "a" and "b", part "c" does not arise.

**Mr. Onyango:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that due to the fact that people from border districts are required to be screened before they are provided with identity cards, the cost of acquiring a Kenyan identity card has gone up? The registration officers, Assistant chiefs, chiefs and the local leaders use that as an opportunity to exploit Kenyans from border districts.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I agree that the requirement that the persons applying for registration provide documentary evidence, occasionally, makes it more complicated for them to acquire identification documents, especially at the border districts. Unfortunately, we cannot change the rules because it is in our interest to make sure that only persons entitled to registration in Kenya are registered. We will have to do with this system, because it is legal that they produce documentary evidence of either their birth certificates, baptismal certificates or other documentary evidence, so that they can be registered as Kenyans.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that, in fact, this verification exercise is carried out even in non-border areas? In Kisumu, for example, you have to write a lot of information; starting with the name of your Assistant Chief to the DC. If you do not have your parents' birth certificates or identification cards (ID), you may not be issued with an ID. Is the Assistant Minister aware that this is in fact a method which the Government has used to discriminate against people from some areas because if they are not given IDs they cannot get voting

cards? This is a way of rigging elections!

**Mr. Samoei:** Mr. Deputy Speaker, Sir, you are only required to produce documents relating to your parents when you are applying for a passport or other travel documents. You do not need those documents to get registered as a person in Kenya. All you need is your birth certificate and this should be certified by members of the Provincial Administration to facilitate that exercise.

**Mr. Deputy Speaker:** Mr. Assistant Minister, you cannot apply for a passport if you do not have your ID. The ID must come first.

**Mr. Samoei:** Exactly, Mr. Deputy Speaker, Sir. That is why I was saying that you do not need your parents' identification documents to get an ID.

**Mr. Deputy Speaker:** You do and that is an order!

**Mr. Weyrah:** Is the Assistant Minister aware that even after producing the birth certificate and all the other relevant documents for getting IDs, in North Eastern Province, especially the Somali community, we have to produce the infamous Somali screening card? What is the Government doing about that?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, that is a document that was used in the past but, as the rule stands today, you do not have to produce it.

**Mr. Maore:** As a Government policy in protecting the integrity of its borders, foreigners who cross into the country seeking refuge are kept in refugee camps under normal international standards. The largest refugee camp in this country happens to be in Eastleigh and 100 per cent of all those foreigners have acquired the national IDs in Kenya. Could the Assistant Minister explain why the Provincial Administration collects money by selling these documents and harasses people in border areas?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I am not aware of a refugee camp in Eastleigh. However, I am aware that some forged documents purported to be Kenyan identification documents are in the possession of certain members of our Kenyan society. We are doing something to rectify the situation.

**Mr. Shill:** Mr. Deputy Speaker, Sir, we know that there are some communities that are really targeted because even today those Somalis who live in Nairobi, Nakuru and Eldoret are subjected to that screening. Why are they subjected to that kind of screening while they have never lived in border areas?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I do not think there is a particular community that has been targeted. We try to tighten the registration process for all persons living along the border areas to make sure that only persons entitled to Kenyan registration papers actually get them. That is why I am saying that persons who have not lived in the border districts at any one time in their lives should not be subjected to this process.

**Mr. N. Nyagah:** This issue is very prevalent, not only in the border areas, but all over the country including Nairobi. Could the Assistant Minister issue a statement to the Registrar of Persons so that this goes all over this country and they do not bother people with all those other identifications that they so require? This way we will know that the Government is serious in that statement the Assistant Minister is coming up with.

**Mr. Samoei:** Mr. Deputy Speaker, Sir, we have already issued instructions to the Registrar of Persons. There used to be a requirement that all persons who require identification documents be referred to their home districts. The Registrar of Persons has been given instructions to the effect that Kenyans, wherever they are, are entitled to a Kenyan identification document if they can produce documentary evidence of their birth certificates and other documents required.

**Mr. Maitha:** Mr. Deputy Speaker, Sir, I happen to come from an area where this problem is prevalent and we have complained frequently to the Minister about it. I happen to represent people of the Bajuni community in Old Town who are always branded Arabs and they have been denied passports and identification papers. The Assistant Minister has always been receiving such appeals from my people. What effort is he making to have a committee in place that will ensure that Kenyans get identification documents?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, we do have such committees, but that is just one item. These committees are *ad hoc*; they are formed as and when there is a requirement for them to certify certain people and to assist certain people to be given identification documents. As things stand today, we do have such committees.

**Mr. Onyango:** Mr. Deputy Speaker, Sir, I feel that this screening exercise is not justified. It is discriminatory against the border areas like North Eastern Province and parts of Nyanza, against areas like Rift Valley and Central Provinces. It is an indirect way of rigging elections because we have got people who are over 20 years old in those areas and they cannot be given ID cards. Could the Assistant Minister order the officers concerned to give people ID cards without undergoing this screening exercise because I believe all Kenyans are equal?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, it is true that all Kenyans are equal. It is the Government's position that all persons who are entitled to a registration document should actually get it. In this effort of getting our persons

registered, I think it would be unfair to extend this registration exercise to persons who do not qualify to get Kenyan registration documents. In an effort to make sure that only those people who are entitled by right as Kenyans, to get these registration documents and none other, it would be difficult for me to order that this verification exercise be scrapped. That would breed fertile ground for persons who do not qualify to get the identification documents to get them.

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

**Mr. Munyes:** Mr. Deputy Speaker, Sir, I wish to express my apology for coming late.

*Question No.693*

CAUSE OF BOMBING AT LOKICHOGGIO

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

- (a) whether he could explain the cause of a bombing incident at Lokichoggio by a foreign plane on 17th March, 1989, that killed Mrs. Akal Lorumor Awote and Miss Alice Longelech Lorumor; and,
- (b) what urgent steps the Government will take to compensate the families of the deceased.

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

(a) I am aware that an unidentified aircraft dropped bombs in Lokichoggio, Kenya, on 7th March, 1989, at about 9.45 a.m. Four civilians were killed while several others were injured. The motive behind the attack is still unknown.

(b) Unfortunately, there is no basis for seeking compensation from the Government as a result of this bombing incident.

**Mr. Munyes:** Thank you, Mr. Deputy Speaker, Sir. This is a question of compensation for loss of life. The Assistant Minister has explained that we lost lives and livestock in that bombing which occurred 11 years ago. Up to now, this

Assistant Minister cannot tell this House whether that was a Sudanese or a Ugandan plane. The Government has not been able to identify that plane up to now. Could the Assistant Minister be sincere to this House today and tell us whose plane bombed Lokichoggio 11 years ago?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I have said in my reply that the aircraft was unidentified. Today, we are not aware of the motive of the bombing and we do not know where the plane came from. Unfortunately, there is no provision in law for the compensation the hon. Member is asking for.

**Mr. Muchiri:** Thank you, Mr. Deputy Speaker, Sir. This is a very serious matter where a plane entered this country and killed citizens, and yet we have in place a lot of security precaution measures. Since it is the responsibility of the Government to provide Kenyans with security, on what grounds is the Assistant Minister saying that this Government cannot compensate those people who were killed, when he was unable to provide them with security, which he has sworn to provide in this country?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, while I agree that it is incumbent upon the Government to provide security to all persons, including their property, unfortunately, there is no provision in law for compensation. As a result of what happened in 1989, the Government did take steps to make sure that a repeat of that unfortunate incident does not occur and we did upgrade the Lokichoggio Airstrip to provide it with security equipment. Indeed, the Government put this airstrip under the charge of the Kenya Airports Authority (KAA), so that there is proper documentation and use of the airstrip.

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

**Mr. Deputy Speaker:** Which Standing Order have we breached?

**Mr. Maore:** Mr. Deputy Speaker, Sir, we have breached Standing Order No.87.

**Mr. Deputy Speaker:** Order! The hon. Member who asked the Question has not said that he is dissatisfied!

**Col. Kiluta:** Mr. Deputy Speaker, Sir, I am a little bit at a loss because this country, if I remember very well, is supposed to be divided into sectors and surveillance maintained on every sector by either the Armed Forces or the DCA. The Assistant Minister has admitted here that an unknown aircraft entered this country and it was not detected. Is he admitting that the security that is supposed to be maintained in this country 24 hours is no longer there? Is he also telling us that we are---

**Mr. Deputy Speaker:** Order! Ask one question at a time!

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I did not say that the aircraft was not detected. In fact, the aircraft was detected by the DCA, but the action did take place before a proper response could be given by our security network. However, as I said earlier on, we have upgraded that airstrip for proper security surveillance.

**Mr. Munyao:** Mr. Deputy Speaker, Sir, I am sure that you have been to Lokichoggio, where even vehicles have got different registration number plates. Is the Assistant Minister satisfied that the people in that area should

behave as if they are outside Kenya?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, the area is squarely within our Kenyan borders and we have no intention of allowing the situation to change.

**Mr. Munyes:** Mr. Deputy Speaker, Sir, this is a very serious Question. This incident has happened in other places; for example, recently a bomb exploded here in Nairobi, where many people lost their lives and their families were compensated. This is a case of a poor community out there; they are just played around with and the people who are against the SPLA just come in and shoot us thinking that we are SPLA soldiers. As I speak here, there is bombing around those borders and it will happen again and, yet the Assistant Minister has said that there is no compensation for these people. I would like to point out that these families, who have lost their people might need a little money for their children. Could the Assistant Minister be sincere enough and tell us the way we should follow for these people who lost their loved ones to be compensated?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I have always been sincere in my replies. I have stated here that there is no provision in law for me to process any compensation claim to the victims. The only option open is for assistance on humanitarian grounds, which we are willing to have a look at.

**Mr. Gatabaki:** Mr. Deputy Speaker, Sir, I would like to apologise for coming late. This was due to the poor infrastructure in Githunguri Constituency, because as the Chair knows, this Government hates that constituency very much!

**Mr. Deputy Speaker:** Order! Hon. Gatabaki, everybody knows that on Wednesday morning Parliament begins at 9.00 a.m. with or without infrastructure!

*Question No.381*

MERGING OF COMMERCIAL BANKS

**Mr. Gatabaki** asked the Minister for Finance:-

- (a) the number of banks that have so far merged their operations in order to raise the minimum capital requirements as established by the Central Bank of Kenya;
- (b) of these banks, how many were operating profitably before the merger; and,
- (c) what steps he is taking to ensure that the merged banks operate profitably.

**The Assistant Minister for Finance and Planning** (Mr. Murrirmoi): Mr. Deputy Speaker, Sir, I would like to request the Chair to defer the Question.

**Mr. Deputy Speaker:** Why?

**The Assistant Minister for Finance and Planning** (Mr. Murrirmoi): Mr. Deputy Speaker, Sir, this is because the Minister who was preparing the answer requested that the Question be deferred.

**Mr. Gatabaki:** Mr. Deputy Speaker, Sir, this is very surprising of this Government. I have a very comprehensive answer; three pages of a copy of a written answer given by the Minister and here is an Assistant Minister from this very confused Government saying that the Minister is not ready! However, I would not mind having the Minister answer the Question tomorrow in view of the fact that the Assistant Minister is not qualified to answer this Question.

**Mr. Deputy Speaker:** I think we have to accept that the Assistant Minister is being truthful with us, that he was not due to answer this Question, and to that extent he is, therefore, not competent to answer it. I will be happy to defer this Question until tomorrow afternoon.

*(Question deferred)*

**Mr. Munyao:** Mr. Deputy Speaker, Sir, I apologise for not being around to ask my Question when you called it for the first time.

*Question No.472*

NUMBER OF MACHAKOS/MAKUENI  
STUDENTS IN UNIVERSITIES

**Mr. Munyao** asked the Minister for Education:-

(a) whether he could table the list of students who have qualified and have been admitted in the Kenyan universities in the last 10 years from both Machakos and Makueni Districts, year by year; and,

(b) whether he could explain why the two districts' performances in "O" level do not match the Kenya Certificate of Primary Education status.

**The Assistant Minister for Education, Science and Technology** (Dr. Wamukoya): Mr. Deputy Speaker, Sir, may I request, through the Chair, that hon. Munyao allows me to answer this Question tomorrow because it came in July, the answer was prepared, but my officers could not trace it by the time I was leaving the office.

**Mr. Munyao:** Mr. Deputy Speaker, Sir, I respect this Assistant Minister. If that was not the case, I would have said that this Ministry is very notorious. I would like him to confirm that the Question will be answered tomorrow.

**Mr. Deputy Speaker:** The Question is deferred to tomorrow.

*(Question deferred)*

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I am sorry for coming in late, although the Minister was busy. However, I am now ready to ask my Question.

*Question No.645*

#### DECENTRALISATION OF NSSF

**Mr. Ojode** asked the Minister for Labour:-

(a) when the Ministry will decentralise the National Social Security Fund (NSSF) claims to the provincial level; and,

(b) why the Ministry has failed to pay all the retrenched public servants their NSSF dues, notwithstanding their ages.

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

(a) The Ministry has already decentralised the NSSF claims to the provincial level. Claimants can lodge their claims at the nearest NSSF offices and collect their cheques in the same offices after processing.

(b) The retrenched public servants will get their NSSF dues as per Sections 20 and 23 of the NSSF Act. Section 20 states that a member of the Fund is entitled to age benefit upon attaining the age of 55 years, after retiring from regular employment. Under Section 23, a member of the Fund is entitled to a withdrawal of benefits upon attaining the age of 50 years, and is no longer in regular employment.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, that is a very misleading answer! Just two weeks ago, I helped one of my constituents to come all the way to Nairobi to collect and sign for his dues! When he talks of decentralisation, he should tell me where in Kisumu the payments are being made.

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, they are paid at the Kisumu NSSF office.

**Mr. Ndilinge:** Mr. Deputy Speaker, Sir, arising from the answer given by the Minister, is he aware that the retrenchees are affected by the exercise? He should try to bend the law and make sure that those affected, particularly the young, who cannot wait until the age of 55 years, are paid. Some of them are very young. Could he bend the law and make sure that those young retrenchees are paid their dues?

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, it is not possible to bend the law. The NSSF Act, as it is now, does not make any special provision for payment of the NSSF dues to retrenchees. In fact, it makes the retrenchees age a critical factor in consideration of payment of the NSSF benefits.

**Mr. Maore:** Mr. Deputy Speaker, Sir, the intention of the NSSF Act was that the Government would manage the economy so well that, there would be no crisis of mismanagement. Now that the Government has succeeded in mismanaging the economy to the extent that the World Bank is dictating that we should change our laws and have some people retired at 27 to 30 years, why can the Government not harmonise its own policies, and rush either an amendment or a Sessional Paper to start paying the affected people immediately?

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, that is a good question. I wish it was possible to do that at the moment. But there are provisions to amend the laws. That is one of the laws that will be amended when everything else has been done to amend all the labour laws.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, let the Minister confirm to this House when he will bring a miscellaneous amendment bill or a Sessional Paper to amend the two sections which bar him from paying the people

who have been retrenched at the age of 30 years.

**Mr. Deputy Speaker, Sir,** if your son is retrenched at the age of 30 years, why should he wait until he attains the age of 55 years in order to get his NSSF payments?

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, I can understand the feeling of the hon. Member. I consider the matter to be very important. I will start discussions on the possibility of doing something about it. But currently, that is the situation. But as soon as we are through, we will bring a response to this House.

**Mr. Onyango:** Mr. Deputy Speaker, Sir, we know very well that money from the NSSF was invested in financial institutions which failed, although they were politically correct. Could the Minister assure this House that the Government will pay the principal amount which was contributed by the employer and the employee, plus the interest that the principle amount was supposed to earn from the failed financial institutions?

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, I do not think there is a problem when calculations are done to pay retired members of the NSSF. Everything is done according to the rules and regulations. The retirees are paid according to whatever money they contributed, and what was contributed by the Government or the employer.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I asked one simple question! I asked the Minister to tell us where, in the provinces, are payments being made? In Kisumu, there are no payments being made to the retirees. They have to travel all the way to Nairobi. In which provincial headquarters are payments being made?

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, payments are made in all the provincial and district headquarters. But if somebody applies in Nairobi, the payment is done in Nairobi, or the cheque can be sent to the district where he comes from.

**Mr. Ojode:** On a point of order, Mr. Deputy Speaker, Sir. The Minister is misleading this House! Two weeks ago, I brought one of my constituents all the way to Nairobi. I started with him from Homa Bay; that is the district headquarters where I come from. Then, we came to Kisumu and there was nothing like that! He is misleading the House! What do we do to him? Could we name him?

**Mr. Ngutu:** Mr. Deputy Speaker, Sir, there is no reason to name me because if the employee came to Nairobi to apply for his benefits, there is nothing I can do. But there is a provision for them to apply for their benefits from the districts or provinces as the case may be.

### QUESTIONS BY PRIVATE NOTICE

#### DISTRIBUTION OF FAMINE RELIEF IN MAKUYU

**Mr. P.K. Mwangi:** 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 120 bags of maize meant to be distributed for famine relief in Makuyu Division, Maragwa Constituency, have disappeared mysteriously?

(b) Is he further aware that vehicle No. KAH 643W collected 60 bags on 1st August, 2000, from Sagana and vehicle No. KZU 212 collected 60 bags from Thika National Cereals and Produce Board warehouses, respectively?

(c) What immediate action is the Government taking to ensure that all food meant for famine relief reaches the intended destination?

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

(a) I am not aware that 120 bags of relief maize have disappeared mysteriously. However, I am aware of an allegation that some 56 bags of relief maize have gone missing in Makuyu Division of Maragwa Constituency. Action has already been taken and investigations have been launched.

(b) I am aware that vehicle No. KAH 643W collected 60 bags on 1st of August this year and vehicle No. KZU 212 collected 60 bags of maize on 26th August this year, all from the Thika Depot. I am not aware of any transportation of maize from the Sagana Depot during the period mentioned since there was no allocation of maize in the same depot at the time. The District Commissioner's office does not have any lorry and hence, relief food is ferried on hired transport.

(c) The Government has re-opened the Maragwa Depot which was closed. It is now stocking maize for relief food to ensure that food travels shorter distances to reach the targeted needy population unlike before, when maize was received in Thika and Sagana.

**Mr. P.K. Mwangi:** Thank you, Mr. Deputy Speaker, Sir. The Minister has not answered the Question because, during the month of August, Makuyu Division started receiving relief food. I was one of the committee members who sat down and set up modalities of distributing relief food from Sagana. We decided that a lorry from the constituency should go and collect the relief food and the transporter was given 240 bags by the DC, Maragwa District.



We appointed the DO, Makuyu and the KANU Vice-Chairman, Makuyu Branch, to go and sign for the deliveries vide despatch No.116387 from Sagana which collected maize. The maize was supposed to go to Kamahuha and Kabiti Locations and they were supposed to receive 110 bags each but they received only 50 bags each. Since the Minister has been misled, what action has he taken to ensure that the person who collected the maize is charged with theft?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, we would like the Government to have such type of an hon. Member who can investigate matters. This matter has already been reported to me and I will also inform the police so that they can take action. The matter will be brought before court very soon.

**Mr. Murathe:** Mr. Deputy Speaker, Sir, concerning the story of maize disappearing, as the hon. Member is saying, a truck was specifically dispatched to a given destination, then other trucks somewhere along the way went and collected the maize and then it disappeared. Is the Minister aware that the wife of the DO Maragwa is the Depot Manager in charge of Thika Depot and that she is part of the whole racket of disappearance of maize?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, as we all know, we are in Parliament and also in the office. But we will be very pleased to co-operate with the people concerned, who know much better about what happens on the ground. Let the hon. Member give more information to my office or the police so that we can stop that practice once and for all.

**Mr. Kihara:** Mr. Deputy Speaker, Sir, in view of the frequent disappearance of relief food, could the Minister consider getting elected leaders involved in the relief food distribution so that we can account for it?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I would like to make it very clear that we are all involved as Members of Parliament. Members must see to it that the people who have elected them get a proper supply of food at the time they need it. For example, hon. Maitha has already asked for relief food and his people are going to get it.

**Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. The hon. Member for Gatanga asked a pertinent question and the Minister is right to say that the people on the ground are the ones who know what is happening better. The hon. Member for Gatanga raised the issue of the wife of the DO, Maragwa, being the---

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

**Mr. Ndicho:** Is the Minister in order to refuse to answer hon. Murathe's question? The cause of this problem between Thika Depot and Maragwa is because the wife of the DO, Maragwa, is the Depot Manager of the Cereals Depot at Thika. We also lost 136 bags for Ruiru!

**Mr. Deputy Speaker:** Order! What was hon. Murathe asking? He merely made a statement.

**Mr. Ndicho:** No, no! He asked a question which was not answered!

**Mr. Deputy Speaker:** Did he ask whether the Minister was aware?

**Mr. Ndicho:** Yes! But the Minister did not answer that question and he was aware!

**An hon. Member:** He is not!

**Mr. Deputy Speaker:** He was aware!

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I am aware of this and that is why I have referred the matter to the police. I cannot be a police officer, a Minister and a CID officer at the same time. I have sent the matter to the police to be investigated. If we talk too much about the matter here, we may interfere with the case.

**Mr. P.K. Mwangi:** Mr. Deputy Speaker, Sir, on 1st August, 2000, Wilson Mwangi Karanja, of P O Box 761 Thika, Identification No.12523843, sold 60 bags of maize at a cost of Ksh1,450 per bag whereas the Government was buying it from the National Cereals and Produce Board (NCPB) at a cost of Kshs1,665 per bag and this maize never reached Makuyu Division. All the other people who have been implicated in this matter have recorded statements at Makuyu Police Station. However, one person has declined to record a statement and he is the person who sold those bags of maize; that is the former DO, Makuyu Division. When will he record a statement? This former DO is being protected. Instead, the Government has interdicted the Chief of Kamahuha Location, who had nothing to do with maize. He was just trying to cover up the DO because of the four bags which are---

**Mr. Deputy Speaker:** Ask your question!

**Mr. P.K. Mwangi:** I am building up my question, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** No, ask your question!

**Mr. P.K. Mwangi:** Mr. Deputy Speaker, Sir, now that I have told the Minister what actually happened could he tell this House, and the nation at large, how much money the Government has set aside to finance the distribution of famine relief food for the next three months in the whole country?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, to be very honest, the hon. Member is doing his job very nicely and we would like other hon. Members to report the matter like he has done. He has reported to me and I will go back to my office and accordingly ask the people concerned. He is a very good hon. Member of Parliament and should be re-elected!

*(Several hon. Members stood)*

*up in their places)*

**Mr. Deputy Speaker:** Order! Order! Look at the time!

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

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

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to continue being sarcastic when he is actually not taking any action? When asked what action he will take, he continues being sarcastic. Could he tell this House what action he is going to take?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I do not know whether there is a difference between the English spoken in Mombasa and that spoken in Nairobi. But I made it very clear that we are taking action about the matter. I am very serious and you may even see me at Maragwa very soon.

#### MEASURES TO PREVENT CHILD ABDUCTIONS

**Mr. Sungu:** 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 one, Mr. Samson Sila Makanji, attempted to abduct a child by the name Catherine Aduwa; daughter of Sarah Nambuye at Manyatta Estate in Kisumu Town on Monday, 13th November, 2000?

(b) Is he further aware that neighbours who went to rescue the child were dispersed by police who fired gunshots at them?

(c) What urgent measures has the Minister taken to investigate and prevent such incidents and apprehend the culprits?

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

(a) I am aware that Mr. Samson Sila Makanji was arrested and charged with the offence of attempted child stealing, contrary to Section 174 of the Penal Code. The matter is still pending before court in Kisumu.

(b) I am also aware that the police dispersed a crowd that had gathered to lynch the said victim.

(c) The Government has cautioned parents and told them to be extra careful and ensure that their children are not left unattended, especially in the areas where incidents of child stealing have been reported.

However, whenever abductions have been reported to the police, the police officers have moved swiftly to investigate the incidents. So far, 13 suspects have been arrested in connection with child abductions. Three have been jailed while the rest have cases pending before various courts.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, this is a very serious matter. It is serious because the background to it is that one month ago, a dead body of a child was found in Kajulu. Her body was mutilated and some of her private parts were missing. On this occasion, when the public apprehended Mr. Makanji, he stated that there were three people who came from Nairobi for the purpose of child abductions in Kisumu and Busia and that two of them had gone to Busia. When this fellow was cornered, he said that the police knew his actions and movement. He further said that he was under the protection of the police and it was his image that was being beaten and not him as a person. This is a sign of devil worship. Could the Assistant Minister state clearly to this House the causes of child abductions and whether they are connected with devil worship which is prevalent in Kenya?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I agree that Mr. Makanji was cornered by members of the public but since the latter are not competent to mete out mob justice to anybody, the police did intervene, saved the suspect and charged him in a court of law. Once found guilty, Mr. Makanji will receive his due pay for what he did. The whole issue of child abduction is a very serious matter, as the Member has said. We have instituted investigations as to what the causes of this menace are and I will be making a Ministerial Statement shortly on the same.

**Mr. Ayoki:** Mr. Deputy Speaker, Sir, child abduction is very rampant in the country. In most cases, when a child is abducted, the parents consider the child dead, since in most cases they are killed. Could the Assistant Minister consider introducing a death penalty sentence, or life imprisonment, for child abductors as a deterrent measure to this heinous action?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I think the current seven years imprisonment may be a little bit lenient and that is a consideration which we can make.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, recently, members of the public killed an innocent person in Kariobangi because they suspected him to be a child abductor. What action has the Assistant Minister taken against those people who killed that innocent person?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, that is exactly why I said that members of the public are not

competent to mete out mob justice because the competent law enforcement agencies and the courts are the only institutions that can mete out justice to anybody. That is why the police intervened in the Kisumu incident. However, in the Kariobangi incident, we are still investigating with a view to getting the persons who instigated the mob justice that culminated in the death of an innocent member of the public.

**Mr. Sambu:** Mr. Deputy Speaker, Sir, when many Kenyans speak, they tend to associate these abductions and mutilations of abducted children with devil worship. Two years ago, the Government instituted a commission to look into this devil worship and if I remember well, it was headed by a bishop. Why was the report not released? What is so secret about this report that it cannot be released? Could the Assistant Minister release the report or if he is not going to release it, tell the public why it cannot be released?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, this issue of child abductions rightfully as hon. Sambu has said, has been attributed, in certain sectors, to devil worship. In other sectors, it has been attributed to the infamous *Mungiki* sect and other similar organisations. However, as to the report instituted by the Government on devil worship---

**Mr. Mwenje:** On a point of order, Mr. Deputy Speaker, Sir. Although this issue has been quite prevalent in my constituency, could the Assistant Minister substantiate that it is *Mungiki* which has been involved?

**Mr. Deputy Speaker:** Order! There is nothing to substantiate.

Proceed!

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I said that just as allegations have been made about devil worshippers, and other dubious organisations, some allegations have been made about *Mungiki*. I further said we have instituted investigations and, shortly, we shall be releasing the report of the same. I am not too sure about the report but I think we should be releasing it any time now on the inquiry that was put in place on devil worship.

**Mr. Mwenda:** Mr. Deputy Speaker, Sir, invariably, every crime has a motive. This child abduction is a matter of national concern because of its prevalence. Now, has the Government tried to investigate seriously, to find out what is the motive behind this child abduction? Is it a human trade, devil worshipping or what is it?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, I admit it is a very serious issue and, as the Member has said, we indeed, have instituted investigations with a view to getting to the root cause and motive of these child abductions.

**Mr. Sungu:** Mr. Deputy Speaker, Sir, like I said, this is a very serious matter and if there is anything that is a threat to law and order in Kenya, it is the issue of child abductions. This is because no single human being, whether a Parliamentarian, policeman or an army soldier, is going to sit idle when his or her child is abducted. I have had occasions to see some of these children who have been mutilated and the sight is gory beyond description. What urgent measures will the Government take to prevent this evil because I am not satisfied that what has been done so far is adequate and reasonable in the circumstances, and in view of the seriousness of the situation?

**Mr. Samoei:** Mr. Deputy Speaker, Sir, the hon. Member is very much aware that this particular exercise cannot be undertaken by our security personnel alone and that is why we have asked parents and guardians to be extra careful in the manner in which they handle their children to and from schools or any other places they frequent. We, on the security part, have taken extra care to make sure that the response to members of the public who require help in reported instances is swift.

**Mr. Deputy Speaker:** Next Question! Mr. Mugeke.

**Mr. Mugeke:** Thank you, Mr. Deputy Speaker, Sir. This Question came up about two weeks ago. At that time, the Ministry was not

prepared. It came up again last week and the Ministry did not have enough facts to answer it. Somebody would appear not to be very keen to have this Question answered. I now hope that the Minister has the answer!

#### AWARDING OF JOGOO ROAD CONTRACT

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

(a) Could the Minister inform the House how the contract to build the 1.5-kilometre Jogoo Road section connecting Outer Ring Road was awarded and who is the contractor?

(b) How much is the contracted sum and what was the completion date of the road?

**The Assistant Minister for Local Government (Mr. Sirma):** Mr. Deputy Speaker, Sir, I answered this Question last week. However, I cannot table the consultancy Report as requested by the House because I have not familiarised myself with its details. At the moment, I cannot also answer the hon. Member adequately.

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

**Mr. Deputy Speaker:** Order! Hon. Assistant Minister, the direction from the Chair was not that your familiarise yourself with the Report, but you lay it here on the Table for hon. Members to read for themselves. That is

precisely what you will do now.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, I do not have the Report right now with me.

**Mr. Deputy Speaker:** I now order that Report be laid on the Table this afternoon.

**Mr. Sirma:** Mr. Deputy Speaker, Sir, I will lay it on the Table as you have ordered.

**Mr. Mugeke:** Mr. Deputy Speaker, Sir, it is evident somebody in the Ministry does not want this Question answered. In fact, we were told by the Assistant Minister that their Permanent Secretary does not want this Question answered. How long will this House tolerate the conduct of the Ministry?

**Mr. Deputy Speaker:** Hon. Members, there is no point in asking more questions on this issue because the Chair has already made a ruling. That Report must be laid on the Table of this House this afternoon or certain consequences will follow thereafter.

**Mr. Orenge:** Mr. Deputy Speaker, Sir, I am just seeking a clarification and I am quite happy with the ruling you have made that the Report should be laid on the Table this afternoon. But can the Question appear on the Order Paper today or tomorrow, so that the House has the opportunity to ask questions on the basis of that report?

**Mr. Deputy Speaker:** Hon. Members, the Order Paper for this afternoon has unfortunately been issued. But that Report will be laid on the Table this afternoon and if the hon. Member wishes this Question to reappear tomorrow on the Order Paper, I have no problem about that. But the Report must be laid on the Table today afternoon. The Question is deferred to tomorrow afternoon.

Next Question.

*(Question deferred)*

ALLOCATION OF ROAD RESERVE TO  
OCEAN VIEW PLAZA LIMITED

**Mr. Maitha:** Mr. Deputy Speaker, Sir, although I have not received the written reply, I beg to ask the Minister of Lands and Settlement the following Question by Private Notice.

(a) Is the Minister aware that Messrs. Ocean View Plaza Limited has been allocated road reserve Plot No.MN/9892 and MN/1/9933 along the Mombasa-Malindi Road?

(b) Is he further aware that telephone wires and water pipes destined for Nyali and Bamburi Estates pass underneath these plots?

(c) What urgent measures is the Minister taking to nullify the said allocations and ensure that no development takes place on the said grounds?

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

(a) Yes, I am aware that the Ministry was misled to allocate road reserve Plot No.MN/1/9892 and No.MN/1/9933 along Mombasa-Malindi Road to Messrs. Ocean View Plaza Limited and Mr. John Cheruiyot respectively.

(b) I am further aware that telephone wires and Sabaki River Water Pipes destined for Nyali and Bamburi Estates pass underneath these plots.

(c) Following the submission of the ground report by the field officers, I would like to ask the allottees of these plots to surrender the title deeds as the allocation was based on a wrong development plan. The Ministry will consider allocating them alternative plots when they become available. In the meantime, the title deeds have been restricted in order to stop any transaction or development on the plots.

**Mr. Maitha:** Mr. Deputy Speaker, Sir, let me thank the Assistant Minister for this very good reply. However, the allocation of road reserves in this country is very rampant. We discussed it in this House and agreed that the Ministry should not allocate any plot before surveying the plot and establishing whether it is a road reserve or a public utility. In view of this, I would like to inform the Assistant Minister that all Malindi road reserves have been allocated. Could I furnish the Ministry with the information on those allocations, so that he can revoke them the way he has done with this one?

**Mr. Tarar:** Mr. Deputy Speaker, Sir, I would be grateful if the hon. Member can furnish us with that information so that we can take the necessary action.

**Mr. Kihoro:** Mr. Deputy Speaker, Sir, arising from the reply given by the Assistant Minister that the allottees will be allocated alternative plots, could he assure us that they will not be allotted a road reserve? Maybe this was their original plan, that they be allocated a road reserve, the allocation is then revoked and they are allocated another viable plot. Could he further assure this House that, indeed, the Government will not allocate another plot to them because it is not under any obligations to do so?

**Mr. Tarar:** Mr. Deputy Speaker, Sir, my Ministry will allocate these allottees alternative plots if they ask for them.

**Mr. Maitha:** Mr. Deputy Speaker, Sir, in view of the good answer the Assistant Minister has given, may I inform him that my constituents have volunteered to plant trees along all the road reserves. Could he assure this House that when my constituents embark on this exercise, they will not be disrupted?

**Mr. Tarar:** Mr. Deputy Speaker, Sir, I have no problem with those residents planting trees along that road reserve.

**Mr. Deputy Speaker:** Next Order.

## MINISTERIAL STATEMENT

### ABDUCTION OF CHILDREN IN THE COUNTRY

**The Assistant Minister, Office of the President (Mr. Samoei):** Mr. Deputy Speaker, Sir, hon. Dr. Ochuodho and hon. Muchiri raised the issue of abduction of children, mainly in Nairobi and Kisumu, and requested me to make a Ministerial Statement in this connection.

Mr. Deputy Speaker, Sir, I wish to state as follows:- Child stealing, otherwise referred to as child abduction, is a criminal offence punishable upon conviction by imprisonment for seven years. Any person who kidnaps or abducts any person, including a child, in order that the person may be murdered is liable to imprisonment for ten years. Over the last couple of months, particularly during the months of September and October, 2000, a number of cases of child abduction, some of which led to murders, were reported in Nairobi and to a lesser extent in Kisumu. The incidents in Nairobi caused fear and despondency in Nairobi Eastland areas, culminating in sporadic violence that led to the lynching of suspected child abductors, some of them clearly innocent persons. The Government security personnel moved in fast to investigate the matter. Several suspected child abductors were arrested and have cases pending before court. I am glad to note at this point that quick action by the Government and the co-operation by members of the public have ensured that this heinous criminal activity is quickly being brought under control.

Mr. Deputy Speaker, Sir, investigations are still in progress with a view to establishing the root cause of this phenomenon. Available leads point to various motives ranging from desire to have children for childless persons to primitive witchcraft or satanic rituals. These are only leads and the process of gathering evidence is still in progress.

Since the beginning of this year, a total of 13 suspects have been arrested in connection with child abduction or child stealing. Three suspects out of the 13, have been found guilty and sentenced accordingly. Ten suspects have cases pending in various courts. In this connection, I would like to call upon parents and guardians to be extra vigilant and alert to ensure that their children do not fall prey to the wiles of child abductors. During the present school holidays and the eminent festival season that will follow, the police will increase patrols in potential target areas. But parents and guardians should also ensure that their young children are not left unattended.

Thank you.

**Dr. Ochuodho:** Thank you, Mr. Deputy Speaker, Sir. Child abduction is a very serious problem. This weekend while in Rodi-Kopany, I stopped to a church to get some information, but the people and children who were there ran away from me. Whenever they see a vehicle, they suspect it belongs to child abductors. I learnt that in Homa Bay District, pupils no longer go for night preps. They have been banned because of fear that the children will be abducted. Recently, in my own constituency, about three children were abducted. I asked the Assistant Minister a very specific question; to tell Kenyans how many people have been abducted in the recent past in the Coast and Nyanza provinces. Hon. Muchiri asked about Nairobi. He has not replied to these.

**Mr. Deputy Speaker:** Order! Order! This was not a request for an answer. It was a request for a Ministerial Statement. If you are seeking further clarification, then you can put a Question to the Office of the President.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, in his Ministerial Statement he was supposed to have told us how many people have been abducted and also, if there is any link between the abduction and devil worshipping. He has not told us why specifically, a devil worshipper who was paraded in Kisumu by the Nyanza PC, Peter Raburu, has never been prosecuted.

**The Assistant Minister, Office of the President (Mr. Samoei):** Mr. Deputy Speaker, Sir, this is a serious problem as the hon. Member admits. I have said that there are several leads as to the cause of this phenomenon. We are carrying out investigations in all areas where abduction of children has been reported and we will make this report public soon.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, this Government has a lot of intelligence officers in addition to the

more than 30,000 police informers. Why is he not utilising them to get the motive of this child abduction and the group involved? Also, why is he not investigating the Freemasons who are alleged to be devil worshippers?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Deputy Speaker, Sir, it is good that hon. Muchiri knows that we have personnel that we will put to use to get to the root cause of this problem. As I said earlier, we are looking at all possible leads, including what the hon. Member has said.

**Mr. Sungu:** Thank you, Mr. Deputy Speaker, Sir. Like we have said before, this is a very serious issue. I believe the Assistant Minister should set up a task force within the Police Force to look at this issue carefully and speedily because it can get out of hand as was evident in Korogocho and in my constituency. In my constituency, an American priest was lynched on the suspicion that he was a child abductor and devil worshipper. This matter will definitely get out of hand if no immediate, fast and comprehensive action is taken. Can the Assistant Minister promise this House that he is going to take this matter very seriously and that, he will also look at the law, to check whether the penalties which are supposed to be levied on these people, if found guilty, are upgraded to make them commensurate with the crime committed?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Deputy Speaker, Sir, I do appreciate the advice given by the hon. Member. But we will do the best we can in all aspects, especially to understand the reasons behind the sudden prevalence of this phenomenon in our country.

### POINTS OF ORDER

#### DELAY IN RELEASING EXAMS IN KALAWA

**Mr. Munyao:** Mr. Deputy Speaker, Sir, yesterday, I had requested for a Ministerial Statement from the Ministry of Education concerning some examinations which have not been done in Makueni. Earlier, I had already drawn your attention to the notoriety of the Ministry, but not the Assistant Minister. Can they confirm that this statement can be made this afternoon because they had promised to do so?

**The Assistant Minister for Education, Science and Technology** (Dr. Wamukoya): Mr. Deputy Speaker, Sir, the statement is being prepared. I will make it tomorrow afternoon.

**Mr. Deputy Speaker:** Thank you very much.

#### PREPARATION OF BILL TO REGULATE OIL PRICES

**Mr. Mbela:** Thank you, Mr. Deputy Speaker, Sir. I stand in my capacity as the Chairman of the Energy, Communications and Public Works Committee, first, to congratulate the Minister for Energy for coming out to oppose the reckless behaviour of the cartel that is composed of eight international companies. I want to take the opportunity to inform this House that the Committee is working on a Bill which we expect to table very soon to introduce the office of a regulator on the same lines as the Electricity Regulatory Board. As soon as it is ready, it will be tabled.

Thank you.

*(Applause)*

**Mr. Deputy Speaker:** It has been brought to my attention that there is a Question coming up tomorrow on the petroleum price issue. But there is also a Motion pending and which will be introduced to discuss the same issue. I think the Committee will be involved in that.

#### ADDITIONAL INFORMATION ON AGOA ACT BENEFITS

**The Assistant Minister for Tourism, Trade and Industry** (Mr. Ekirapa): Mr. Deputy Speaker, Sir, recently in answer to a Question raised by an hon. Member, I was requested to lay on the Table the AGOA Act and also a list of the items that Kenya has applied for. I have the privilege to lay before the House a list of the African countries in the Sub-Saharan Africa which have qualified for membership of AGOA. They are 34 in number. I also wish to lay before the House 304 items that Kenya has applied for under the AGOA Act.

Finally, I wish to lay before the House a list of 2,000 items which Kenya can qualify to export to the United States America duty free and quota-free.

Thank you.

*(Mr. Ekirapa laid the documents on the Table)*

*[Mr. Deputy Speaker left the Chair]*

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

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

### MOTIONS

#### ALLOCATION OF FUNDS TO CONSTITUENCY-BASED PROJECTS

THAT, in view of the fact that Kenya is a developing country, cognisant of the fact that Members of Parliament are responsible for effecting development in their individual constituencies, this House resolves that 5 per cent of the annual Government revenue be allocated to constituency-based projects, and that such development projects be presented to the House Departmental Committee on Finance by the elected Member of Parliament for each constituency, for eventual inclusion in the annual Government budget.

*(Eng. Muriuki on 22.11.2000)*

*(Resumption of Debate interrupted on 22.11.2000)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Eng. Muriuki, you have five minutes remaining.

**Eng. Muriuki:** Thank you, Mr. Temporary Deputy Speaker,

Sir.

At the close of business last Wednesday, I was describing the various efforts which have been made to develop this country, but these have not yielded any success. We have tried to support the manufacturing sector by pouring billions and billions of shillings into export processing zones (EPZs) and tourism. I have no quarrel with the manufacturing sector, export processing zones and tourism. But the fact remains that the ordinary mwananchi still remains with a *per capita* income of US\$300 just as it was 30 years ago. We have also tried very heavy borrowing and the end result is that the country is shouldering up to Kshs510 billion plus which works out to nearly Kshs2.5 billion per constituency. Neither the country nor the constituencies or wananchi have anything to show for all that very heavy borrowing. At the moment, we are pre-occupied with the poverty eradication talk which, in my view, is a total waste of time. We have talked to experts, quack consultants and the World Bank, but we have not talked to wananchi and their representatives. So, the gist of this Motion is to have a small portion of the country's income, which is derived from wananchi, ploughed back to help wananchi.

Mr. Temporary Deputy Speaker, Sir, at this point in time, I would like to point out the amount of money this Motion seeks to avail to each constituency. Every year, the Government publishes a document known as "Economic Survey". I would like to refer this House to page 80 of the Economic Survey of 1999. In that financial year, the Government revenue was Kshs193 billion. Five per cent of that figure, for instance, would work out to about Kshs9.5 billion; this would further work out to about Kshs45 million per constituency, which can be used on development projects. Every hon. Member will consult with his constituents to determine the projects to be undertaken with the money that will be availed to it.

I am sure that hon. Members will pass this Motion to save themselves from the burden of conducting Harambees every Saturday and Sunday. Instead, they will be using the available Government revenue for development projects in their respective constituencies. We are asking for only a small portion of the revenue that the Government collects every year. So far, development in constituencies tends to take place in such an haphazard manner that the situation can be regarded as being akin to practising witchcraft. For example, you would not know when power would be supplied to an area, when and where a health centre would be put up, or where a road would be constructed.

This Motion seeks to have this country's development efforts to be based within the constituency, something which we have introduced in the road sector through the enactment of the Kenya Roads Board (KRB) Act, which provides for the creation of District Roads Committees (DRCs), through which Members of Parliament and other principal leaders of each district, collectively, decide on the roads to be given priority as far as maintenance work is concerned. I am aware that there has been a serious effort to sabotage that move, but I am happy to note that, last week, we passed the necessary legislation, which the Minister for Roads and Public Works used to give as an excuse for the

DRCs not being operational. We would like to see the same happen in the health and rural electrification sectors, so that people in every constituency can say: "We would like to have electric power in such and such areas, and health centres put up in such and such an areas". From the onset, we will know the amount of money available for what project.

Mr. Temporary Deputy Speaker, Sir, since my time is up, I beg to move the Motion and request my good friend, hon. Ndwiga, to second it.

**Mr. Ndwiga:** Mr. Temporary Deputy Speaker, Sir, first of all, I would like to thank Eng. Muriuki for moving this very important Motion.

I expect the Government side to support this Motion, because it appears that what the Motion is seeking is the direction in which the Government is moving, although the same Government is so erratic that one cannot quite understand whether its face is on its front or back. I say so because, last weekend, we were treated to a Kshs140 million extravaganza in terms of seminars. Those seminars were meant to sensitise the people and leaders on the importance of starting the poverty reduction exercise at the grassroots level. We were told that the exercise will be spear-headed by leaders, and that the focus will be at the grass-root level; that is exactly the spirit of this Motion. I, therefore, hope that Government is going to support this Motion. If the Government opposes this Motion, it will lose face; it will be known to be saying one thing today and a totally contrary thing the following day.

Mr. Temporary Deputy Speaker, Sir, rural-based initiatives are the only ways by which development can be realised in this country. The Mover of this Motion has cited the DRCs as an example of a rural-based development initiative approved by this House. Although the DRCs have not been operational since the passage of the KRB Act, there is now an indication that they will work. Do we not want to see the same happen in the education, health and agricultural sectors? Priorities must be given to the grassroots level, and this is exactly what the Government has been saying. The Government said that the poverty eradication initiative should start from the grassroots level. I am happy that the Vice-President is here; Kenyans are waiting to hear the Government position on this Motion. If the Government does not support the spirit of this Motion, then all the poverty reduction seminars being held countrywide are nonsensical. What are we saying? We have, previously, listened to the Minister for Planning talk about exactly what this Motion is seeking. This has been the spirit countrywide. I earlier on said that nothing surprises me about this Government; nothing at all. However, I hope that this time round, the Government will "wear its face in the front", so that we can pass this Motion.

The merits of this Motion spirit are many. First of all, it will assist the Budget formulation process; it will help the Minister for Finance to have the basis on which to formulate his Budget. Budgetary requirements will not only come from the district level, but also from constituencies. That is the only way by which we can have a Budget which addresses itself to the requirements of this nation. In the past, the donor community has also raised this point. I am sure that the Minister for Finance has had many problems trying to convince donors of the merits of his Budgets. Donors have already suggested that this country's budgetary proposals should come from the ground; the people should participate in identifying whatever the Government finances. But what do we see? Every year, the Minister for Finance comes to this House with a Budget speech and presents it. But I have been in this House for the last seven years, and I am sure that by September of every year, Government Ministries are yet get their budgetary allocations. That situation affects all hospitals. Because of that, telephones are disconnected even in the DC's offices, and there is no water in police lines throughout the country. Why is it so? This is because the budgetary system that we have here is up-side down. It should come from the ground.

The spirit of the Motion is also to assist the Government in the Budget formulation through the Ministry of Finance and Planning. We have gone through a long period of drought and famine, and there is famine relief food being supplied currently in the country. In the last five years, this House has passed billions of shillings in the Budget for the provision of water. But how many irrigation projects have we started in this country in the last five years? They are very few. We are saying that the rural areas have got proposals for projects, but they do not have the money while the priorities of the Government are different from the ones on the ground. If the money allocated for water development in the Budget has been going to the constituencies in the last five years, we would not be moving around the world begging for food because we would have had our own system of producing food from our own resources. But that has not happened.

The amount of budgetary allocation that the Mover is asking - 5 per cent - is a small token. The Government would have the balance of 95 per cent of what remains to do whatever else it wants to do, but it has to allocate money for security, defence and other responsibilities of the Central Government. The 5 per cent going to the constituencies will change the face of this country so much that, the issue of poverty eradication will begin to have meaning.

I also wish to address the issue of health. We are now grateful that the politics surrounding the Constituency HIV/AIDS Control Committees (CACCs) has eased. We do hope that the Government will stop politicising issues like HIV/AIDS control. Some of us are very responsible people, but the tragedy is that if you are a thief, you think that



everybody else is also a thief. It is true that the Government having seen that billions of money is pouring in for HIV/AIDS awareness and control, they want to control the CACCs. In the past, you know what has always happened.

Immediately the money is released, the Government leaves it to those who are managing HIV/AIDS. But this time, most of us who are concerned about the HIV/AIDS scourge intend to lead and guide our CACCs into making sure that awareness is created on the ground. We want the Government to stop seeing money; we want the Government to start seeing objectives and results.

In the same vein, there is the issue of centralised allocation of drugs - the Central Medical Stores Unit. If we had money at the constituency level, and you know how many health centres are found there--- Regarding the issue of cost-sharing, one would be able to increase whatever money has been collected at the health centres and even offer better health services. The other area, especially at this time, to be considered is education. Look at how many children are dropping out of school today because the national Budget gives them very little money as bursary fund. Even when the bursary funds are sent to schools, you never get to know which children have benefitted. If you have 5 per cent of the annual Government revenue allocated for every constituency, you would be able to decide how much of that would go towards bursaries and other expenditures.

With those few remarks, I wish to second the Motion.

*(Question proposed)*

**Mr. Shidiye:** Thank you, Mr. Temporary Deputy Speaker, Sir.

I would like to take this opportunity to contribute to this Motion. Development in this country must come from various components and individuals - from the Government, NGOs and various donor communities. Development at the rural level must be emphasized because it is at that level where people need water, electricity, education and security. The trend for the last 10 years in this country has been very bad, because the rural areas have been completely neglected.

*(Applause)*

I see a situation where priorities have been violated and neglected. Whereas we sit in the DDCs, they have become nothing; they are toothless bulldogs. We have seen a situation whereby you sit in the DDC and there is nothing to discuss. Maybe, you can only now discuss the projects run by hon. Members on Harambee basis because there is absolutely nothing else. When the Rural Development Fund (RDF) was in existence, at least, there was a semblance of work being done. You could find a dispensary, here, a school and a health centre there, and a few projects here and there. But currently, if you go to the rural areas, you will even wonder whether the Government exists or has gone on a French leave.

Like in my constituency, if you go to a whole division, you will find that there is no health centre or school and there is lack of water and insecurity incidences are high. All those things boil down to the following: That it is an indicator that we are not serious to develop our areas. At the district level, you will see many idlers. If you go to Wajir, you will find there is a District Forest Officer, and there are no forests in Wajir. You wonder why that officer is being paid, and that is violation of priorities. If you come to Garissa, you will be told that there is a District Fisheries Officer, and you wonder what that officer is doing there. People in Garissa are not fishmongers and they do not even eat fish or export it. There are so many officers of various Ministries idling all over in the NEP. You will find the District Co-operative Officer, the District Agricultural Officer and the District Livestock Officer idling in the districts of NEP. When you go to Mandera, you will find that there is the District Agricultural Officer, but people do not even practise agriculture there. The time has come when leaders in this country declared that a certain amount of money must be withdrawn from the Consolidated Fund for development purposes in the constituencies. We are expected to deliver by our constituents, but we cannot deliver when the people on the ground are so poor!

Mr. Temporary Deputy Speaker, Sir, hon. Members of Parliament have gone out of their way to raise money from poor people to build dispensaries, schools and all other facilities. It is as if we want to run this country on a Harambee basis! Members of Parliament are invited to participate in all sorts of Harambees, for instance, those for schools, pre-weddings and even birthday parties! This era of Harambees must come to an end! We are breeding a begging culture in this country. When you enter into an office in this City, the first thing you are met with is a Harambee card. Whereas the founding father of this nation initiated Harambee in order to assist the common mwananchi, it has become an epitome of corruption. The only way we can eradicate this vice is to make sure that development reaches the people on the ground. Even people who failed in school will want to conduct a Harambee so that they can go and study abroad. At this rate, we will be producing graduates who cannot understand anything! That is why priorities have been violated in this country.

Mr. Temporary Deputy Speaker, Sir, this country requires a federal system of Government where the constituency can be the centre of development. When everything is centralised in Nairobi, the officers in the Treasury cannot appreciate the problems in other parts of the country. You can imagine what happens to a District Forest Officer in Garissa or a District Fisheries Officer in Garissa. What work will they perform? If I was given the opportunity to plan and choose what I want, I would only have four departmental heads in my district. I would have those officers concerned with security matters, health and education. The rest will have to go home. There are very many idlers in this Government today. There are people who earn salaries for doing virtually nothing.

*(Mr. Mkalla distributed papers in the House)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Mkalla! What are you circulating in the House?

**Mr. Shidiye:** Mr. Temporary Deputy Speaker, Sir, there are very many people who are idling around in our Government. In the next political dispensation, we will want a Government which is not centralised. We have too much violence in this country because everything is being decided upon in Nairobi. Some people in this country do not even know where Garissa is! So, development must reach the people on the ground. I am elected to serve my people. But if I cannot deliver, then it will be an unfortunate situation! This country has the potential to develop if the right people are put in place. When you have a District Commissioner who is paid less than Kshs15,000 a month, what do you expect him to do?

*(Mr. Mkalla moved to the Front Bench)*

**Mr. Nguni:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Mkalla to continue distributing the Kshs15 million in the House while hon. Shidiye is busy contributing on this Motion?

**The Temporary Deputy Speaker** (Mr. Imanyara): I had cautioned him, but he does not seem to take me seriously. Any other movements and I will throw him out.

**The Assistant Minister for Tourism, Trade and Industry** (Mr. Ekirapa): On a point of order, Mr. Temporary Deputy Speaker, Sir, are you going to allow the comment that hon. Mkalla is distributing Kshs15 million to go on record?

**Mr. Shidiye:** Mr. Temporary Deputy Speaker, Sir, before that interruption, I was saying that we cannot expect people who are paid peanuts to handle development priorities in this country---

With those remarks, I beg to support.

**Mr. Nguni:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. This country has been independent for the last 36 years, but there are areas where people have not enjoyed the fruits of that Independence. There are areas where people associate Independence with a Government officer or taxation, but such areas have never seen any Government activity. We want a Government in place which can take care of the needs of the entire country, but not certain parts of the country. We want a Government that is responsible to the people of this country and not where leaders come from.

Mr. Temporary Deputy Speaker, Sir, there are areas in this country that benefit directly when the area Member of Parliament is appointed into the Cabinet. Right now, the Minister for Energy has succeeded to supply electricity to his constituency through the Rural Electrification Programme. This has happened because Government Ministers have got the tendency of distributing the national resources between themselves.

**The Assistant Minister for Tourism, Trade and Industry** (Mr. Ekirapa): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Minister for Energy happens to come from a constituency which is very close to mine. I can confirm that the entire Butula Constituency has not benefitted from Rural Electrification as alleged by the hon. Member.

**Mr. Nguni:** Mr. Temporary Deputy Speaker, Sir, I know he is campaigning in the hope that the current Minister will be dropped, so that it is all distributed at the district level. If 5 per cent of the revenue of this country---

**The Assistant Minister for Tourism, Trade and Industry** (Mr. Ekirapa): On a point of order, Mr. Temporary Deputy Speaker, Sir. How can an hon. Member make such a serious allegation that I might be campaigning for the current Minister for Energy to be dropped, so that I can be appointed in his place?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Ekirapa! Do not put words in hon. Nguni's mouth.

**Mr. Nguni:** Mr. Temporary Deputy Speaker, Sir, we must admit here and now, that if anybody wants to be development conscious, they must support this Motion. We do not want to be dreamers of development consciousness.

We must be actual development conscious people, by seeing to it that 5 per cent of the revenue generated in this country goes to the constituencies. That is Kshs45 million as Eng. Karue has said. That will demystify the belief in *majimboism*. That will also demystify the idea that whoever has looted from here and there becomes a leader because he contributes in Harambees meeting. That will produce real politicians who will sit down and plan to develop their constituencies, having been allocated the funds. Leaders will be able to plan for the health facilities. There are constituencies in this country which do not have health facilities and where wananchi depend on *juju* men for treatment, because the Government has never thought of even developing a single health centre.

Mr. Temporary Deputy Speaker, Sir, if we have the 5 per cent of the entire revenue being allocated to the constituencies, we would be able to develop the education system in our constituencies. There are constituencies which have never had a proper secondary school. Some hon. Members of Parliament come from constituencies where the existing schools are the ones which were developed by the colonialists. Those are provincial schools. But there are other constituencies which are doted with secondary schools. The time has come when we went back to the people and told them in a tangential manner, what the Government is doing for them.

Mr. Temporary Deputy Speaker, Sir, in Uganda, money is released from the Central Government to the counties, so that people can develop equally. That is the miracle that has made Uganda attain a higher growth rate than Kenya. But they are not depending on Harambee. Why should people who have no money be taxed under the pretext that, you are development conscious to produce Harambee money. People should be made aware that this is money from their revenue and that is the money which should, for example, be used to develop irrigation.

If I had that money, I would have developed my area through irrigation, because my constituency is surrounded by the lake on three sides. People would see tangible benefits from the Independence of this country. Why do we not have irrigation in my area? This is because the policy-makers do not look at Kenya in total. They look at Kenya which is fragmented, where the so called development conscious Members of Parliament come from. If I had this 5 per cent pushed to my constituency, why would I not have cold storage facilities dotting around the lake? We must turn around and look at Kenya in total, so that we see to it that each and every area has its potentiality which must be developed. This development must be done by the area Member of Parliament and we should never think that a District Officer or a District Commissioner can develop an area. He has no particular interest in the constituency. The person who has an interest in the constituency is the elected Member of Parliament. That is the person who should be endowed with finance, so as to talk seriously about development.

We are tired of befriending Ministers for the sake of development. I am a friend to the Minister for Finance, but I would like him to be my friend the way he was before we became politicians. I would not like to always go down on my knees begging for funds to develop roads in my area. I would like to simply show him my shopping list for development and ask him to put it in the Budget. I would like to see a situation where Members of Parliament can seriously talk about development and not consciously. You could be development conscious, but if you do not have the means, you will never talk seriously about development as much as you would like it.

It is not just a miracle that we have River Sondu Miriu. But the Government and the people of Kenya have missed the opportunity of initiating development on that potentiality. This is not because the Member of Parliament from the area was not development conscious. The Government must now look at potentialities from one area to the other and give Members of Parliament the opportunity to sit down with the Government and map out the development of this country from the constituencies to the whole country.

I beg to support.

**The Minister for Finance** (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me the opportunity. Before I respond to Eng. Karue's Motion, I would like to propose an amendment. I would like to--

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Okemo, would it not be fair for Mr. Mkalla to also distribute the written proposed amendment to the Opposite side of the House?

**The Minister for Finance** (Mr. Okemo): Mr. Temporary Deputy Speaker, Sir, he could do that as I proceed.

Before I make my amendment, I would like to make it clear, that, in fact, Eng. Karue's Motion, as it stands, is already well taken care of by the budgeting procedure that is in place. For example, there is the District Allocation Budget for the Ministry of Roads and Public Works and the District Allocation Budget for the Ministry of Health. The only difference here, is that we could decentralise these budgets to go down to the constituencies because we know most districts have got more than one constituency. So, Eng. Karue's Motion would actually be taken care of by going that far down. In fact, this will give me the chance to also mention that the consultative process that we have put in place would go a long way - if I would persuade hon. Members in the Opposition to take an active part in the consultation process which is going to take place from the district level down to the community level. This means that, you come from the district, down to the divisions, to the locations and sub-locations, up to the village level.

That is what the consultative process will entail if my colleagues from the Opposition side were to take an

interest in this consultative process, they would actually have a chance to prioritise development activities in their constituencies. What is clear and evident right from the outset is that the needs of the constituency far outweigh the resources that the Government would possibly be able to put together. As a result, it means that we have to prioritise. There will have to be some cut-off point whereby some of the projects will not be implemented simply because there will just not be enough resources to cater for them. I do, therefore, think that the consultative process is an important step in that direction which will lead to prioritisation. Members of Parliament should get involved, not just at the district level, but they should go right down to the community level in order to develop these priorities from below. Then you will come up with a whole array of projects that you need to implement. These will be prioritised and implemented on the basis of the resources available. This Motion should be well catered for through that consultative process. When the districts have put together their budgets which then translate to the Ministries, then all these concerns will actually be taken care of. This is the point where I would like to propose my amendment.

Mr. Temporary Deputy Speaker, Sir, I beg to move that the Motion be amended as follows:-

By deleting all the words immediately after the word "that" appearing on the third line to the end and substituting them with the words, "the Minister tables within the next six months and in any case before the next Budget Statement, proposals for appropriate mechanisms to ensure that 2.5 per cent of the Government revenue is allocated to constituency- based projects."

That means that the Motion as amended will read as follows:

THAT, in view of the fact that Kenya is a developing country, cognisant of the fact that Members of Parliament are responsible for effecting development in their respective constituencies, this House resolves that the Minister tables within the next six months, and in any case before the next Budget Statement proposals for appropriate mechanisms to ensure that 2.5 per cent of the Government revenue is allocated to constituency- based projects.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Vice-President** (Prof. Saitoti): Thank you, Mr. Temporary Deputy Speaker, Sir. I just want to second this amendment. In doing so, I want to bring to the attention of this House the fact that in matters of budgeting of the resources available, there are certain salient features that should be taken into account. The original Motion fails to capture certain fundamentals which are: Once the revenue is collected and, therefore, paid into the Consolidated Fund there has to be a distribution mechanism depending on the obligations which have to be met. Today, because of the bloated Civil Service that we have had, the Recurrent Expenditure has normally accounted for almost 70 per cent of the revenue. If you look at the Budget and all the printed Estimates you will see that about 70 per cent of the Budget normally goes to the Recurrent Expenditure. Once you get that one out, there are certain fundamental obligations that the Government has to meet by virtue of the Constitution. Normally, those have got the first count of the Budget. Following the amendment of the Constitution to create the Parliamentary Service Commission and the Bill that we passed the other day empowering Parliament to draw directly the resources from the Consolidated Fund---

When you really look at the totality of the Budget, the total amount of money that is usually available for the development is not more than 20 per cent. That is when things are really good. Inside the 20 per cent, one must also take into account the fact that there are also what one may call national projects. These national projects may very well be taking care of several constituencies. For example, the Mombasa-Nairobi Road which is being repaired now is an important national project. That takes the money out of the 20 per cent. There are also major water projects which are not necessarily confined to one particular constituency. Take the example of the Ndaka-ini Water Project that supplies water to Nairobi; that one is a national project. Even though there was a loan for it, the Government is normally forced to commit a certain amount of money. There could also be a major project in the health sector. For example, Kenyatta Hospital may require finances for expansion or any other thing. That is not a constituency project, but a national project.

There are also some other national projects such as the one for security. Once you are able to factor in all these national projects, some constitutional obligations and you also take into account that over 70 per cent of the Budget is dedicated to Recurrent Expenditure, the Minister for Finance has very little to do to raise the 5 per cent. All of us who are in this House, clearly agree that we all want to undertake some projects in our own constituencies. We want all of them to be done, but it is the percentage that matters. The Minister for Finance is proposing that we scale down this figure from 5 per cent to 2.5 per cent. That is to take a realistic position of how we actually want to distribute these funds. If you wish to retain that figure then the best thing is to "eat" into the Recurrent Expenditure and this will be done by ensuring that we deepen the retrenchment exercise. There was a Motion here and it was quite clear that you do not want the retrenchment exercise to take place. We do not have those resources.

The amendment by the Minister for Finance, apart from highlighting his constraints, then states: "---because these district budgets---" The mistake we have is that we never read these so-called "district-wise budgets". They are done on the district basis. We need to decentralise further these budgets. This can be done, so that you can have this

one. If you do not want to interfere with district budgets then you can have the Budget drawn on the basis of constituencies as pointed out here.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Please, reduce the volume of your consultations for the Vice-President to be heard.

**The Vice-President** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I think what is being stated is that immediately this Bill is passed, the Minister for Finance--- Once these district-wise budgets are decentralised, at least, every constituency; the ones which are coming up very quickly will have slightly more than Kshs25 million. This is important because---

**Eng. Muriuki**: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that there is a limited time for this Motion, is it in order for the Vice-President to go on and on seconding it? Why does he not conclude his speech?

**The Vice-President** (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, the hon. Member is being impatient. Let him listen to our views as we have listened to him. I am not in any way opposing this Motion, but I want to highlight certain fundamental constraints when it comes to the Budget, which should be taken into account. I have further said that what is being sought here--- There is no reason why the hon. Member should oppose this amendment. Let us agree that we decentralise the district budgets so that hon. Murungi knows right here the amount of money that will be allocated for his project in his constituency and in which area. In my view, I believe that this will be one of the best ways of actually fighting poverty, because hon. Members of Parliament will have the opportunity to discuss these projects in their constituencies, interact with the people who really matter and draw the priority from there. There is no doubt, therefore, that what comes here will be something that really matters. That is exactly what we want. I understand that 70 per cent of our own Budget goes to Recurrent Expenditure, because of the salaries and allowances. This is because we have got a bloated Civil Service. Secondly, whatever remains there goes to meeting constitutional obligation. It also goes to the servicing of the loans, which are many. Therefore, the amount of money available eventually for these things will be fairly small, but I think it is a beginning. As the economy grows, there is no reason why the 2.5 per cent cannot be increased eventually to 10 or 20 per cent.

Mr. Temporary Deputy Speaker, Sir, I do beg to second this amendment.

*(Question of the amendment proposed)*

**Mr. Michuki**: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to speak on this amendment and Motion, at the same time. I have listened attentively to what the Vice-President has said with regard to the availability of

monies in the Government. His approach to the matter he had at hand did not refer to the need for efficiency, retrenchment and value for money that he now terms as 70 per cent. It is correct that 70 per cent of the revenue is being used in the Recurrent Expenditure for salaries and so on, but the studies which have been carried out by the World Bank and other reputable institutions indicate that---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. Michuki, I rise to clarify a few points, because I proposed to allow 10 minutes for the amendment. When you rose to speak, you said that you want to contribute on the amendment and the Motion. If you do that, other hon. Members will not get an opportunity to contribute on the amendment. So, you have got to choose. If you want us to deal with the amendment, we can do it immediately and then you can contribute, but you cannot do both, otherwise, you are "eating" the time available for others to make a contribution.

**Mr. Michuki**: Mr. Temporary Deputy Speaker, Sir, we have just made calculations here which indicate that 2.5 per cent release about Kshs23 million to every constituency. This amount of money is not even enough to build a bridge across River Mathioya and one kilometre of a tarmac road. This amount of money will probably cover two small dispensaries with equipment and everything else. This Motion has been necessitated by the Government's negligence of constituencies and short-sighted policies of financial allocation. If we want to do something, let us do it properly or not do it at all. This is because to give a constituency Kshs23 million, all we are saying is that, that is peanuts. It is like the Kshs5 million which has been allocated to constituencies to repair roads. This amount of money can hardly do anything. Therefore, it is better to stick to the figure that was in the original Motion; that is giving Kshs50 million to each constituency, so that something tangible can be done with the money. Otherwise, this is an exercise in futility, where you introduce the low diminishing returns by making the amount so small that it will not benefit anybody.

Therefore, I would like to oppose the amendment and argue that we stick to the 5 per cent which gives each constituency about Kshs46 to Kshs50 million, so that something tangible can be done.

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

**Ms. Karua:** Thank you, Mr. Temporary Deputy Speaker, Sir.

I rise in opposition of the amendment, because the Minister has not given any credible explanation why 2.5 per cent is preferable to 5 per cent. Even if 5 per cent is spent on constituency-based projects, there will still be 95 per cent for national projects. This amendment also destroys the spirit of the Motion which is that the elected Members will be the ones bringing the proposals on which projects should use their share of the 5 per cent.

Therefore, Members will still be left without any say on what projects to prioritise in their constituencies. I think it is in the interest of all the Members to be involved in development projects in their constituencies. We know that we are all burdened by Harambees. If we had a leeway of initiating development projects through the budgetary estimates, the public-fund-raising meetings will be a thing of the past.

We shall still contribute to worthy projects, but there will be less pressure on individual Members. I am appealing to the good sense of all the Members of this House that this Motion, as it is today, will not only assist us in our work, but it will assist our constituents. We know why there is need for this Motion. The public resources have been abused and mis-allocated. Projects of the choice of those in power are undertaken while our constituents continue to suffer. I think that it is in the interest of the development of this nation that we have a suitable distribution of resources. With the current budget, 5 per cent will translate to about Kshs45 million per constituency. It is not enough, but it is a starting point to initiate development projects. The 2.5 per cent translates to about Kshs22 million. That is too little, knowing that the bargaining power of the shilling has taken a nose-dive. Let us be reasonable and let the Minister be content with the 95 per cent of the revenue and leave the 5 per cent to develop the projects in our constituencies.

However, I wish to commend the Minister for supporting the idea of the Motion. But let him support it as it is, and not with the amendment which is undermining the very idea of the Motion, of giving an elected Member of Parliament a leeway to participate in the development projects that will be initiated in the constituencies.

With those few remarks, I beg to oppose the amendment.

**The Assistant Minister for Agriculture and Rural Development (Mr. Sumbeiywo):** Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say something about this Motion. I will confine myself to the amendment.

I would like to support the amendment as proposed. It is better to have something to start the projects. As we are talking now, although there are funds voted for development projects in the constituencies, it is almost impossible for those funds to get to the intended projects. So, it is better because the 2.5 per cent will be controlled by the elected Members of Parliament, assisted by the local councillors and people of integrity in the constituencies. It is better that we support the amendment. On top of that, you realise that there is the Kshs5 million for the District Roads Committees (DRCs). That will total to about Kshs30 million for the projects that will take place in every constituency. They will be supervised by elected Members of Parliament. We should not allow civil servants to control the funds that have been voted by this House and yet, the projects are not implemented.

With those few remarks, I beg to support.

**Mr. Obwocha:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to say that I oppose the amendment for the following reasons.

This Motion was brought so that the resources can be equitably distributed in the country. Let us look at the figures in perspective. The kind of money that is being raised in revenue by the Government every year, is approximately Kshs200 billion. Now, 5 per cent of Kshs200 billion is Kshs10 billion, which we would like to distribute to every constituency for development projects. As other speakers have said, that translates to Kshs50 million per constituency. If that Kshs50 million was to go to every constituency, it would make a lot of difference.

Now, the amendment proposed by the Minister for Finance translates to about Kshs22 million. Even the Kshs5 million that we are supposed to receive through the DRCs is so little that you cannot construct a road in your constituency. You cannot buy a grader! What is Kshs22 million for a project? The Kshs50 million would make sense, considering that many of the constituencies in this country have no completed projects.

Therefore, I would like to propose a further amendment to that amendment. That the 5 per cent remains, but add: "That, the proposals be submitted by the Members of Parliament in their respective constituencies". That way, we can be seen to be working for our people. Our people say that we just make noise here. We are not doing anything. When you go there, you are told: "Huyu jamaa kazi yake ni kupiga kelele Bungeni! He is doing nothing!" This Motion is one of the greatest Motions to have come to this House. This is the only way we can deliver something to our people on the ground. I can see the Government side looking at us! But this will also assist you brothers! We are seeking the support of every Member of this House. Let us deliver something to our constituencies. We want to

tell hon. Okemo that the 2.5 per cent is too little to make any impact in this country. The Kshs10 billion out of the Kshs200 billion is nothing. It is peanuts! He will still be left with Kshs195 billion to distribute to recurrent and other development projects.

With those few remarks, I beg to oppose.

*(Question of the first part of the amendment, that the words to be left out be left out, proposed)*

*(Question of the first part of the amendment, that the words to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, proposed)*

*(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question of the Motion as amended proposed)*

**The Temporary Deputy Speaker** (Mr. Imanyara): You will notice that hon. Obwocha's proposal was not submitted as an amendment here yet.

**Mr. Maundu:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to make barely a few comments on this matter. Since most points of view have been ventilated by my colleagues, at this juncture---

I am not being heard, Mr. Temporary Deputy Speaker, Sir. Can I be given audience?

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order! Order, Mr. Sambu! The hon. Member has requested to be given an audience. Please, if you have to consult, consult in low tones.

**Mr. Maundu:** Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion as amended.

This House has approved a very important amendment where the Government is committing itself to make sure that 2.5 per cent of its revenue is remitted to constituencies for purposes of developing them. The problem that we have in this country is that this Parliament for too long has never had control of all the resources that are voted by the same House. Every time our constituents ask why we are so "impotent" and incapable of controlling our resources.

At the district level where resources are located for purposes of rural development, those resources dissipate into thin air despite the fact that the DDCs and other organs exist. For this particular Motion, we want this mechanism to be brought here by the Minister as soon as possible; a mechanism that outlines very clearly how this money is going to be spent. Hon. Members are tired of being subjected to DCs, DOs and chiefs in terms of development. Members of Parliament want autonomy both within and without this House. We want Members of Parliament to have a say on all the funds that are dispensed for development within our country. We cannot accept the premise that the DC is the agent of development for our people in our constituencies; in exclusion of elected leadership. That sort of leadership has put us into turmoil; it has put us to where we are now. I thank God that this Parliament can now rise today and agree on a matter of principle that Parliamentarians should now take a key role in the development of their own land.

Mr. Temporary Deputy Speaker, Sir, we have had proposals presented to this House where we agree on a matter of merit like this one. With regard to bringing the mechanism and proposals, the Minister wants to run away from his commitment just because he wanted a vote some day. We want to say very clearly that the Minister must bring a proposal here which goes along the following lines: First, this particular fund will be managed by the constituency development committee chaired by the Member of Parliament. We want this money to be completely controlled by a development committee of a constituency where the Member of Parliament is the dominant factor, to oversee and make sure that the resources that belong to the people of Kenya are not abused or misused by anybody, any more. Secondly, we want DCs and other authorities and the Government policy to start changing and make sure that resources are not controlled by agents who come and go. We have been fighting for DDCs to be chaired by locals and it has not happened just because the DCs have been mandated to do certain things in certain areas. If a Member has been branded a rebel or opposition for that matter, he is sidelined for the purposes of frustration and intimidation. This element within our system must now be cleared off for purposes of giving the Government credence and authority to

rule. But so long as the Government is not responsive to the minute details of the suffering of the people of Kenya, then that Government is likely to continue losing grip on the overall governance of a country.

Mr. Temporary Deputy Speaker, Sir, being on the Government side, I would not like the Government to owe its existence to "irrelevant consolations" made by some of us. As a Government, I think we must "take the bull by the horns". If our business is to rule, we must rule by law, consensus, compromise and give-and-take. With that approach, I believe that Government will be all encompassing and have a capacity to rule.

Most Motions that are brought here are by the Opposition Members of Parliament. My own perception is that the Opposition Members of Parliament are more in touch with the reality on the ground.

*(Applause)*

**An hon. Member:** Why do you not cross the Floor?

**Mr. Maundu:** I have no business going to the opposite side because, I can still ventilate my point of view to the best of my ability and capability from this side. Apparently, the problem with most of us is fear. What do we fear with ourselves? We should not fear!

**The Assistant Minister for Local Government** (Mr. Hashim): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ni sawa kwa Bw. Maundu kusema kwamba Hoja zinazoletwa na Wabunge wa Upinzani zinahusu shida za wananchi, hali yeye pia ni Mbunge na ana haki ya kuleta Hoja kama hizo?

**Mr. Maundu:** Mr. Temporary Deputy Speaker, Sir, I agree that most of the Motions that are brought before this House either from the KANU side or the Opposition side touch on the welfare of wananchi. We are all here and I invite you to participate as fully as you can in the next Motion, when it does come.

Mr. Temporary Deputy Speaker, Sir, we want also to "take the bull by the horns". There are competent people on the Government side who can run the affairs of this Government. Let us not intimidate each other. Let the Opposition not intimidate the Government to the extent that they cannot perform, but the Government should come forthright again on issues that touch on the people. Take, for instance, the present issue of the oil crisis in this country. What has been said by the Ministry of Energy in actual terms to show that they are concerned that Kenyans are going to suffer as a result of erratic increases in prices of fuel? Are we going to suggest that because I am from the Government side, I have to be quiet when my constituents are suffering?

**An hon. Member:** When will such a Motion come?

**Mr. Maundu:** The Motion will come before this House and I will ask my colleagues from both sides of the House, the Opposition and the Government, to make sure that we support this particular Motion. It is only through such measures that the autonomy of this Parliament can be realised. We must push these issues by participating in them to make sure that our country moves on.

Mr. Temporary Deputy Speaker, Sir, we are pushed into a corner by the multinational companies because of "over" dependence. We have allowed the multinational companies to play a key role in our activities. First, they make sure that they kill stillborn children that are being created by our own people. This is happening within the oil, banking, manufacturing and the export industries. We must make sure that this does not happen to our people any more.

Mr. Temporary Deputy Speaker, Sir, in this particular area where money is going to be spent, I want to urge our Members of Parliament that we must face it head-on. The accusation is that as a Member of Parliament, you cannot sit on funds and committees in the House here and deliberate how money has been spent. I think as a Parliament, we must grow up with this task, so that we are not compromised and seen like we are the people who decide "the war of the Tories" and when it is ended, we also arbitrate on it. This issue has not been tackled in any specific way. There are many Motions that have come like this one where Members of Parliament are going to participate. We must make sure that the role of Parliament remains one of the same and the role of the Executive and the Judiciary remains the same. This is because unless we have a rule of law that governs the co-existence of these institutions, sooner than later, we will run into a crisis where all of us cannot have an arbitrator for matters that we ourselves in this House have agitated for.

Mr. Temporary Deputy Speaker, Sir, I want to say this finally: All these monies that have been sent even with this budget for the constituencies, we want the Minister to direct that Members of Parliament immediately start to decide on how that money is going to be spent. So far, as we speak now, in our constituencies, we are getting about Kshs22 million. That money is going to our treasuries in the districts. What is the role of the Member of Parliament in deciding where that money goes to our projects? We want the Minister, if he is serious on this matter, to direct that we sit on those committees to decide quickly where this money should go.

Mr. Temporary Deputy Speaker, Sir, the critical areas for our people in this country for those in semi-arid and arid areas is water. We want the issues of water addressed clearly and profitably, to reduce the suffering that has bedeviled the people in the arid and semi-arid areas. In other areas like the highlands and so on, we have the problem



of malaria and so on. We want monies to be dispensed to those areas to make sure that problem is curbed. Also other areas have been neglected completely in terms of energy and electrification. We have not seen electricity in areas like North Eastern Province and parts of Tana River District and we want all these areas to be lit up. If no money is allocated in these areas to make sure that development is taken to those areas, the people there will continue to be poor and recipients of relief food like they have been doing in parts of Eastern Province, North Eastern Province and the drier parts of this country. I think we should now "take the bull by the horns" and move on to make sure that these resources are used for the purposes they are intended for.

I beg to support.

**Mr. Wamalwa:** Mr. Temporary Deputy Speaker, Sir, thank you for the opportunity to make just one or two points. I would like to congratulate the Mover of this Motion and all those who have spoken in support of it. My special congratulations to the opposite side for making rather grudging concessions, but concessions all the same. I think they are concessions in the right direction.

Mr. Temporary Deputy Speaker, Sir, the world today is going the devolution way; that is, from a centralised outfit where all decisions are made at the top, all monies disbursed from the top, the world now demands that decisions be made locally by the various communities and implementation of projects that have been given priority by the communities, also the communities be given a chance to participate.

Mr. Temporary Deputy Speaker, Sir, I find it very difficult to see why any Member of Parliament who represents a constituency would not want to have a say in the development finances of his own constituency. I know that as time goes, eventually, the budget will have to be equitably distributed between the various regions and for a long time now, we have been pushing for devolution in its true sense and this sort of devolution will probably take care of the acrimonious demand for federalism. For example, if each local authority became a Government properly so-called within its locality controlling finances, levying taxes and spending the money for development within their own localities, this country would develop much faster than when decisions still have to be made in Nairobi and then communicated down to the ground.

Mr. Temporary Deputy Speaker, Sir, therefore, what we are witnessing today, even this slight concession by the Government, is a step in the right direction which must be encouraged. This is because I do not believe that there is anybody who would be more concerned about development on the ground than the area Member of Parliament who is elected by the people to bring about such development. I want to explore the myth and hamburger about Members of Parliament not being allowed to sit on financial committees and so forth and so on, like the District AIDS Committees. I think the song has been that Members of Parliament should not be signatories. Which Member of Parliament would be so stupid as to try and filch money from his own constituency AIDS Committee or his own development vote, when he knows that people are watching him and they are waiting to see what is done with that money? I think that fear is completely unfounded. In fact, it is a slur on the integrity of Members of Parliament.

Mr. Temporary Deputy Speaker, Sir, development is practically the main reason why we have parliaments. I believe if the local area Member were to submit a list of development priorities in his constituency, those would be the right ones and he would make sure that they go through. This Parliament has been an outstanding one, quite different from other previous ones. What this House has achieved in the past three years, I think will go down in the annals of history. This is because true democracy demands that various institutions be independent in the Government set-up and this Parliament has made the move by making Parliament independent, in charge of its own administrative procedures, "hiring and firing" and so forth. We shall demand such independence for the Judiciary also. Only when Parliament is completely independent of the Executive and the Judiciary is completely independent of the Executive, shall we be approaching that stage when we can say that we have true democracy in this country.

Mr. Temporary Deputy Speaker, Sir, I would like to appeal to the opposite side, that wananchi are listening and watching. There are certain things that you just wonder why any Member of Parliament, regardless of what side of the House he is seated, should oppose because this is beneficial **[Mr. Wamalwa]** to his people. I believe that eventually, this 2.5 per cent will be raised to 5 per cent and then 10 per cent. I also believe that in a number of years to come - eventually, there will be equitable distribution of the national budget, by Members of Parliament sitting beforehand and agreeing on what development priorities there were and money being agreed to be sent to those areas for those priorities.

Mr. Temporary Deputy Speaker, Sir, I just wanted to make that point - that we are approaching the era of devolution and Parliament should not "pussy-foot" about any decisions or Motions that come here to try and empower constituencies and local authorities because that is the way of the future.

Thank you.

**The Assistant Minister for Local Government** (Mr. Hashim): Asante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii nami nitoe maoni yangu kuhusu Hoja hii. Kwa hakika, hii ni Hoja muhimu sana kwa nchi hii na inazingatia maendeleo mashinani. Shida ambayo Kenya imepata na sehemu nyingine zifaidike zaidi kuliko nyingine ni

kwamba tulipopata Uhuru mwaka wa 1963, hatukuwa sawa. Baadhi ya jamii zilikuwa zimeendelea kuliko zingine na baadhi ya jamii zikaendelea kutupa maendeleo hayo. Uwezo wa kuamua na maendeleo yakawekwa hapa Nairobi, ndio baadhi ya makabila ambayo yalikuwa yameendelea kwa wakati huo yakapata nafasi kuendelea zaidi miji yao na sisi wengine ambao hatukuwemo katika Serikali wakati huo, tukasahauliwa kabisa.

Bw. Naibu Spika wa Muda, sehemu kama ya Lamu hivi sasa ninavyokuambia, huduma ya pekee ambayo tunapata ni kulipa waalimu wa shule za msingi. Hakuna huduma nyingine yoyote. Hakuna maji, zahanati na aina ya maendeleo yoyote. Kwa hivyo, Hoja kama hii ikipitishwa, itatuwezesha kufanya mambo madogo. Sisi sasa tuko katika awami ambayo lazima Serikali izingatie kuwa kuna mabadiliko. Mabadiliko yakitokea sehemu yoyote yanaweza kuwathiri au kuendelea baadhi ya jamii zingine. Kwa hivyo, ni muhimu sana Bunge kama hili kuwa pamoja katika Mswada muhimu kama huu.

Bw. Naibu Spika wa Muda, lingekuwa jambo la maana hivi sasa, uwezo wa Serikali uweze kupelekwa mashinani. Hii ni kwa sababu shida kubwa ambayo tumepata Kenya ni kwa sababu ya uwezo kuwekwa hapa Nairobi.

Bw. Naibu Spika wa Muda, lingekuwa jambo la maana kama Serikali za wilaya zingepewa uwezo fulani. Wakenya wamepata shida nyingi kwa sababu uwezo wote uko katika mikononi mwa Serikali kuu ambayo hujishughulisha sana na mji wa Nairobi. Kwa hivyo, sehemu zingine nchini hazijapata maendeleo yoyote. Ni lazima Serikali ibadilishe mfumo wake na kuzipa nguvu serikali za wilaya kwa sababu miaka 37 Serikali kuu imetuletea matatizo mengi sana.

Bw. Naibu Spika wa Muda, licha ya kwamba Mkoa wa Pwani una rasilmali za kutosha, wananchi wa sehemu hiyo hawafaidiki kama inavyotakikana. Wananchi wetu hawaajiriwi, hatuna skuli za kutosha na barabara zetu ni mbaya sana. Hivi sasa ninapozungumza, wengi wa wafanyikazi wa Serikali katika Mkoa wa Pwani ni watu wa kutoka bara. Jambo hili limeleta matatizo mengi hapa nchini. Kwa hivyo, Serikali inahitajika kuzipa nguvu serikali za wilaya ili maendeleo mengi yapatikane katika sehemu nyingi nchini.

Bw. Naibu Spika wa Muda, kama nilivyosema, Wilaya ya Lamu haina maendeleo yoyote. Wananchi wetu wanakufa njaa licha ya kwamba tuna samaki wa kutosha na ardhi kubwa ambayo kwayo wananchi wetu wangejikusha na kilimo. Lakini kwa sababu wananchi wetu hawana uwezo, ardhi yetu "imeporwa" na baadhi ya watu kutoka bara. Kwa hiyo, uwezo kama huu ukipelekwa mashinani, basi Serikali hii itafaulu na tutakuwa na umoja wa kweli katika nchi yetu. Umoja wetu sasa ni wakudanganyana wala si wa kufanya Wakenya wote kupendana. Ni umoja ambao unatuhitaji tushirikiane tu katika kupeleka mbele mambo fulani. Kwa hivyo, ni jambo la busara na muhimu watu kuweza kuwa na mawazo kama haya ambayo yanajishughulisha na jinsi Wakenya wote wanaweza kuendelea katika sehemu tofauti nchini.

Ni wajibu wetu kama Waheshimiwa Wabunge kuyaangalia vilivyo masilahi ya wananchi wetu kwa sababu tusipofanya hivyo, hatutakuwa tukitekeleza wajibu wetu vilivyo. Tulichaguliwa na wananchi ambao lengo lao kubwa ni kuona wamepata maendeleo. Hata hivyo, uwezo wenyewe hatuna kwa sababu umo mikononi mwa Serikali kuu. Ni lazima Waheshimiwa Wabunge wahusishwe katika maendeleo ya nchi hii. Mapendekezo ya DDC nchini huwa hayatiliwi maanani. Kwa hivyo, Hoja hii ni muhimu kwa vile itasaidia Serikali kubatilisha mfumo wake na kupeleka pesa mashinani.

Bw. Naibu Spika wa Muda, ningependa kupongeza Wizara ya Barabara na Ujenzi kwa kutenga Kshs 5 milioni za kurekebisha barabara katika kila sehemu ya uwakilishi Bungeni. Mambo kama haya yakifanyika, basi Wakenya wote watapata maendeleo.

Ningehimiza pia uwezo wa kugawanya ardhi upelekwe mashinani ili wananchi wetu wapate vyeti vya kumiliki ardhi katika wilaya zao.

Kwa hayo machache, ninaunga mkono Hoja hii.

**The Temporary Deputy Speaker** (Mr. Imanyara): It is time for the Mover to reply.

**Eng. Muriuki:** Mr. Temporary Deputy Speaker, Sir, since I have ten minutes to reply, I would like to donate some two minutes to hon. Murathe to say one or two words.

**Mr. Murathe:** Mr. Temporary Deputy Speaker, Sir, I would like to thank Eng. Muriuki for [Mr. Murathe] donating two of his minutes to me. I would also like to thank the Minister for Finance for supporting the spirit of the Motion. This is because in supporting the Motion, he acknowledges that there are some inherent weaknesses in the current process of resource allocation in this country.

Mr. Temporary Deputy Speaker, Sir, we know that this Government is also taking out insurance because they are exiting. But I would like to assure them that next Government will be very fair in allocating resources. So, they should not panic. I would like to urge the Mover to move with haste and put in place the relevant instruments like publishing and enacting a Bill that will turn the terms of this Motion into law. This is because the amendment says "at any rate before the next Budget". We expect these allocations to be part and parcel of the next Budget Statement by the Minister.

Finally, I would like to congratulate the Mover once again. I think for me this has been the Motion of the Session. Thank you, Eng. Muriuki.

**Eng. Muriuki:** Mr. Temporary Deputy Speaker, Sir, I would like to start off by congratulating the Minister

for Finance for accepting this Motion in principle, although he "watered" it down quite considerably by reducing the proposed 5 per cent of the revenue to 2.5. I would also like to thank him for the fact that he wants these suggestions of projects to be brought by hon. Members. I would urge the Minister, as he goes ahead with what he is calling the "modalities", to take care of the fact that we want hon. Members to be the ones to consult the people. They should also come up with proposals of the projects they want done in their constituencies. I would also like to echo sentiments expressed by various hon. Members on the fact that 5 per cent of revenue is a very small token out of Kshs200 million which the Government collects each year.

We have had a lot of discussions on poverty eradication. It has correctly been pointed out here that it is useless going on talking about ways of reducing poverty in the country by holding conferences and workshops and yet, the Government has not consulted hon. Member or residents of a particular constituency on what should be done. We have heard that there are some constituencies or divisions which do not have even a single health centre. It is sad that we have been having a Ministry of Health for the last 37 years. The effect of this Motion is to see to it that such constituencies or divisions have health facilities.

It was also rightly pointed out that, at the moment, hon. Members are being accused of doing very little and that they just think of Harambee. There also appears to be some kind of "war" between the Opposition and the Government side on the issue of Harambee. But if this Motion is effected properly, we will see an end to glorifying of Harambees and hon. Members will concentrate on the real issues which affect the people they represent in this House. Countries around us like Uganda do not have Harambee. In fact, they have a mechanism similar to the one which we are proposing in this Motion, where every part of the country is catered for in the budgetary proposals.

Mr. Temporary Deputy Speaker, Sir, there was an intimation that this Motion is interfering with the current system where you have huge amounts of money being allocated to water supplies to big towns like Nairobi. This is what this Motion does not want; we do not want all the money for water to be in Nairobi alone. But some of it must be allocated to rural areas. We do not want all the money for roads or electricity to be in Nairobi or Mombasa, but some of it should go to rural areas. The fact that over 70 per cent of revenue goes to recurrent expenditure is neither here nor there. That has been a hard fact for the last ten or more years. All we are saying is that a portion of that money should go to the constituency-based development projects.

Mr. Temporary Deputy Speaker, Sir, to sum up, I would wish to visit a simple physics formula which says; "Work is force times distance". A lot of force and effort has gone into attempting to develop this country, but there has been no work done. So, through this Motion we are saying, given the right opportunity, each Member of Parliament will be able to sit with his people; I will sit with my people in Ol Kalou and plan how we will spend our Kshs45 million. It has been diluted to 2.5 per cent, but I will accept that. I would request the Minister for Finance to live up to his word and ensure that well before the next budget, he gets development proposals from each constituency so that it is included in the Budget, come June.

With those few remarks, I beg to move.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, in view of the fact that Kenya is a developing country, cognisant of the fact that Members of Parliament are responsible for effecting development in their respective constituencies, this House resolves that the Minister tables within the next six months, and in any case, before the next Budget Statement, proposals for appropriate mechanisms to ensure that 2.5 per cent of the Government revenue is allocated to constituency-based projects.

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

IMPLEMENTATION OF JUSTICE KWACH  
COMMITTEE RECOMMENDATIONS

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

THAT, in view of the crucial role the Judiciary plays in the democratisation process and particularly in the administration of justice; considering the need to enhance its efficiency and independence, this House urges the Government to urgently implement the recommendations of the Justice Kwach Committee.

Mr. Temporary Deputy Speaker, Sir, this House will recall that on 7th January 1998, the Chief Justice, the late Z.R. Chesoni, appointed a Committee to look into the delays, backlog of cases, the limited access by the population to our courts, laxity, lack of adequate accommodation, allegations of corrupt practices, cumbersome laws

and procedures practised in our courts that are not understandable by the common wananchi; questionable recruitment and promotion procedures in our Judiciary, general lack of training and inequitable budgets.

The Committee which was headed by Justice Kwach submitted its report in December 1998 and to-date, the recommendations have not been implemented. These recommendations should be implemented for the following reasons. A lot of public funds were used to finance this Committee because it had to visit all parts of Kenya. The Committee also visited countries like the United Kingdom, Botswana, Namibia and the Republic of Tanzania to compare the condition of the Judiciary in those countries.

Mr. Temporary Deputy Speaker, Sir, the Judiciary is one of the arms of the Government in addition to the other two arms; that is, the Legislature and the Executive. In the doctrine of separation of powers, we envisage a situation where each arm of the Government will check and balance the other arms. Therefore, it is important to have an independent Judiciary which has integrity. The Judiciary is an institution that was borrowed and is based on the Westminster model. It is borrowed from our former colonisers, the British. If we may go into the history of the Judiciary in Britain, it was the preserve of a few privileged people. Not everybody could be a member of the Bench or the Bar in Britain. It was the preserve of the ruling class. Immediately after our Independence, because of lack of enough people qualified in the profession and after opening the law school and a faculty at the University of Nairobi in 1970, everybody who excelled in his examination was admitted to either the School of Law or the Faculty of Law at the University of Nairobi. What determined the admission was one's brain and not one's family background or financial status. Over the years, the Judiciary has been perceived with a lot of awe. But of late, Kenyans have been treated to a Judiciary which is not delivering. If you file a case in court, it takes a very long time before the same is heard and determined. Sometimes, the case is neither heard nor determined. You may even die and leave the case still pending in court. In this Report, we have examples of cases which have taken more than ten years in court before they are heard and determined.

Justice Kwach and his team gave very good recommendations to the Chief Justice. I am urging the Government to implement those recommendations. The Committee recommended that: "An independent Judiciary is indispensable to justice in a society. A judicial officer should personally observe high standards of conduct so that the integrity and independence of the Judiciary are preserved." This could not happen because of various shortcomings as mentioned in the Report. There were allegations of corruption. They identified two types of corruption. First, there is petty corruption by those who are very lowly paid in the Judiciary. As a matter of survival, because they must survive, they solicit for very small bribes. There is also grand corruption which is perpetrated by those senior officers who have discretionary powers. This has spoiled our Judiciary. To combat this, the Kwach Committee made several recommendations. With your permission, I would wish to quote this recommendation so that even Members who may want to contribute may know some of the contents of this Report. The Kwach Committee recommended:

- (a) The introduction to the Judiciary of a code of ethics to apply to all Judicial staff. It will outline the expected and prohibited forms of conduct as well as attendant penalties for transgressions against this minimum standard.
- (b) The adoption of a transfer policy by the Judiciary intended to reduce undue familiarity requiring all para-legals, magistrates and judges to serve for a term not exceeding four years in one station.
- (c) In order to limit access to the chambers, all cases must be heard in open court except in specific circumstances."

These specific circumstances are, if it is a case involving sexual harassment or sexual related offences. They should be heard "in camera" to protect the integrity of the victims, mainly the female, who may not want to say certain things in an open court.

They also recommended that:

- (d) All judicial officers should declare their assets on being appointed and thereafter three years after appointment."

This is a very radical recommendation because you find that when people are appointed to the Judiciary, all of a sudden, they become extremely rich. But if they keep on declaring their assets after every three years, this will make them transparent and accountable.

Mr. Temporary Deputy Speaker, Sir, the Justice Kwach Committee, further, recommended that there should be put in place, a system of vetting those proposed for judicial appointments. In cases of practising advocates being appointed judicial officers or judges, the views of the Law Society of Kenya (LSK) and the Advocates' Complaints Commission (ACC) should be sought. You will recall that when the late Justice Chesoni was appointed Chief Justice, there was a public outcry that he was not competent to serve as Chief Justice, because of his past record.

The Judiciary arbitrates disputes between the citizens and the Government. When a citizen is aggrieved by an act of omission or commission by the Government, he actually goes to court for arbitration. On the other hand, if the Government is aggrieved by the act of a citizen, or when a citizen commits an offence, the Government takes that person to court. So, judicial officers, especially the Chief Justice, who heads the Judiciary, must be competent and accepted by society; he must not be somebody with dubious qualifications.

Appointment of magistrates should be restricted to the Resident Magistrate level, and the appointees should be persons with five years' experience in private practice or related field. This would mean phasing out the recruitment of District Magistrates, who are called "district magistrate professionals" for those who have gone through university, or "district magistrate lay persons" for those who have not gone through university.

Therefore, Section 61(3)(b) of the Constitution should be amended, so that one does not qualify to be appointed as a Judge unless he has been engaged in private practice, or related field, for not less than 10 years. If these recommendations are implemented, it will mean that those to be appointed as judicial officers will be vetted.

Mr. Temporary Deputy Speaker, Sir, the Justice Kwach Committee was also mandated to look into issues relating to performance of judicial officers with a view to establishing why we have delays in the delivery of justice. The Committee recommended that the Judicial Service Commission (JSC) should give due regard to appraisal reports, or disciplinary cases, when considering an officer for promotion, and make that a yardstick for rewarding its officers and assessing their training. Those to be appointed judicial officers should be persons of integrity and who are able to do the job; not everybody should be appointed a judicial officer without any criteria being followed.

The Justice Kwach Committee also came up with varied recommendations. The JSC has certain limitations and problems it is experiencing, for example, housing. At the moment, the JSC is supposed to house its officers. There are three ways by which the Government houses its officers. Officers may be housed in Government houses, Government-leased houses, or owner-occupied houses.

What happens in the Judiciary is that, once you are appointed as a judicial officer or as a District Magistrate, you are posted to your first work station, without anybody caring about where you will sleep. On arrival at the station, you are assigned some duties and required to preside over some courts in the morning. Everybody starts bowing to you and referring to you as "Your Honour".

Magistrates commute in the same vehicles with persons that they are expected to try in the court of law. Such persons are the ones who will say "your honour," to you. The Justice Kwach Committee recommended that to avoid that kind of embarrassment--- This is because the Government seems to have disposed all the houses that were used to house magistrates; they have been grabbed and sold. Therefore, there are no longer Government houses, and the magistrates are now almost staying in slums. As a magistrate, you are forced to stay in a slum, wake up in the morning and travel in the same matatu with the person you are supposed to try.

In 1998, the Treasury issued Circular No.6 of 1998 which stated that the Government would no longer lease private houses for its officers, including magistrates. The Justice Kwach Committee recommended that, that circular should be waived for magistrates so that the Government can acquire rented maisonettes and flats for all their judicial officers. This is in order for them to be collected from one point and taken to their offices because it is very embarrassing if you are travelling in the same matatu with the same people you are going to try. They also recommended that, and that is very important, that the judicial officers at the level of magistrates should retire to make their pay package and scheme of service very attractive. If the scheme of service is very attractive, they would not be tempted to receive small bribes. They say that the retirement age of Judges should be reduced from 74 to 70 years in order to give room for younger persons to join the Judiciary and serve in the Bench as Judges. The Report also stipulated that the voluntary retirement age for judges should be 65 years. A judge should retire with a decent pay package to enable him or her live a decent life. The Report also stated that amendments to the Constitution should be made, so that judges' incompetence would be included as a reason why tribunals can be established to discuss a judge if he or she is not doing his job well.

They added that retired judges should be retained on call until they reach the age of 74 years. Where a Judge gives only his year of birth without a date, he or she should be deemed to have been born on the 1st January of that year. Compulsory retirement for magistrates should be raised from the current 55 years to 65 years. Today, magistrates retire like any other civil servants, but 55 years should now be taken as the voluntary retirement age. A retired magistrate should be entitled to his or her full salary. That means that if a magistrate retires, he or she should still get his or her full salary. That is the kind of scheme that will make magistrates and judges diligently serve people so that they can enjoy these benefits after retirement because it is the fear of the kind of life one would lead that tempts people to receive bribes so that they can accumulate wealth very quickly before they retire. But if there is that guarantee that the package envisaged after retirement will make them comfortable, nobody will be interested in bribes.

In those days, when there was job security in the Civil Service, civil servants were working very well, but when we reached the stage that one could wake up one morning and go to the office and find a termination letter on his or her table, that is when corruption started creeping into our Civil Service. If one is assured today that the package is so good after retirement, then, all he or she has to do during his or her working time is to excel or show his or her prowess as an engineer, lawyer, doctor, or any other professional. But when you are not even sure whether you will reach that retirement age before you are sacked, you are tempted to receive bribes so that you can make very quick money. You see, these days people are not interested in making a name as a professional - if you are an engineer, you do not want to make a big name as an engineer; all they want to do is to make big money. In this country, it has been

the practice that---

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Waithaka! You will have five minutes next Wednesday to complete your contribution.

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

**The House rose at 12.30 p.m.**