

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 6th December, 2000

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.699

EXCLUSION OF MERU REGION FROM *EL NINO* PROGRAMMES

Capt. Ntwiga asked the Minister of State, Office of the President:-

- (a) why districts in Meru region were excluded from the *El Nino* Emergency related programmes and yet the area was adversely affected by the rains; and,
- (b) what immediate plans the Minister has for repairing the destroyed bridges in Meru South District.

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

(a) The three districts in Meru were not covered under the *El Nino* Emergency Programme because they were not among the gazetted disaster districts by the Government.

(a) The Government does not have any immediate plans to include Meru South District for further repairs of destroyed bridges, since the effects of the *El Nino* rains were not as devastating as in other districts.

Capt. Ntwiga: Mr. Speaker, Sir, let me, first of all, inform the Assistant Minister that there are four districts in the greater Meru District and not three. Secondly, could the Assistant Minister tell us the criteria used to select those districts to benefit from the *El Nino* funds? This area lies in the eastern slopes of Mt. Kenya and receives the highest rainfall in Kenya. Therefore, the *El Nino* rains must have devastated the area.

Mr. Kochalle: Mr. Speaker, Sir, the criteria used by the Government to gazette those districts as disaster zones was through the various DDCs which were asked to submit their list of project priorities

covered for *El Nino* funding, namely; rural roads, water and health facilities. Depending on the budgetary provisions available for each district and sector, the Project Management Unit selected some projects for design and the tendering processes were completed.

Mr. Speaker: Mr. Kochalle, I thought you said that they were not passed! So, how do you select for districts that are not part of it? I think you are irrelevant!

Mr. Kochalle: Mr. Speaker, Sir, I am not irrelevant because there are districts which are included. So, if he wants the names of the districts, I will show him.

Mr. Kamolleh: Mr. Speaker, Sir, I think the Assistant Minister is actually giving us false information. The last time when such a Question was asked in this House, the Minister told the House that they had information from the districts before they selected them. Now, most of the districts sent the information. For example, in Kwale we have several bridges which broke broken down due to the *El Nino* rains, but the Ministry has done nothing about them. Could he come up with a specific criteria which was used to asses which districts were to benefit from this fund and which ones were not?

Mr. Kochalle: Mr. Speaker, Sir, as the hon. Member has mentioned, Kwale is one of the districts which have benefitted from the *El Nino* funding. But for Meru South, the District Disaster Committee should meet and send their recommendations to the district headquarters.

Mr. Angwenyi: Mr. Speaker, Sir, the Assistant Minister says that these districts were selected a long time ago on some criteria which he does not want to mention. He is also saying that they can still forward their

budgets to be considered under the *El Nino* funded programmes, which has already been done. Does the Assistant Minister mean that the *El Nino* projects are still being evaluated to be assigned for various districts?

Mr. Kochalle: Mr. Speaker, Sir, the evaluation is still going on, so they may send their budgets and something will be done.

Capt. Ntwiga: Mr. Speaker, Sir, now that the Ministry did not consider the greater Meru, what is he going to do about supplementing the efforts of the community which is currently undertaking the construction of those bridges which were destroyed by *El Nino* rains, so that they can move from one point to another? When is the Ministry going to supplement the efforts by the community which is constructing various bridges at the moment?

Mr. Kochalle: Mr. Speaker, Sir, as I have just said, we should go to the districts and make our plans, so that the bridges can be repaired.

Mr. Mwenda: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that Meru South District did not sit down to prioritise areas which required attention as a result of *El Nino* rains, while I know that we made all these recommendations in a meeting which I personally attended in 1998? That was the time when Meru South and Tharaka were one district.

Mr. Kochalle: Mr. Speaker, Sir, I am in order, and the Government does not have any plans to include Meru South District in the programme for the repair of the destroyed bridges, since the rains were not so devastating as in other districts.

Mr. Speaker: Next Question!

Question No.738

PAYMENT OF TERMINAL BENEFITS
TO MR. MUTUKU'S WIDOW

Col. Kiluta asked the Minister of State, Office of the President:-

(a) whether he is aware that Mrs. Teresia Mutuku, wife of the late Patrick Masuti Mutuku, file No.AFCO/PERS/880, who was working with the Armed Forces Canteen Organization has not been paid her husband's terminal benefits; and,

(b) what action he is taking to ensure that Mrs. Teresia Mutuku is paid the dues.

Mr. Speaker: Where is the relevant Minister?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, one of my colleagues was to answer this Question. Maybe, we can wait till the next round.

Mr. Speaker: Next Question!

Question No.751

PROCESSING OF MR. OUNGA'S DUES

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

(a) why the Ministry has declined to respond to repeated pleas of the family of the late Administration Policeman P/No.216709, Thomas A. Ounga, who was reported missing more than seven years ago; and,

(b) what difficulties the Ministry is experiencing in their bid to declare the said officer dead and process his dues and hand them over to the family.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) There is no evidence to show that the relatives of the AP Thomas A. Ounga have contacted the Office of the President in connection with the missing officer.

(b) The officer's next of kin should go to court and obtain a certificate of presumption of death in accordance with Section 118(A) of the Evidence Act, Cap.80. This will facilitate the processing of his dues for payment to the next of kin.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, it is not true that the family of the late Ounga have not contacted the Office of the President for response in this respect. In fact, one of them is also an AP recruited at the same time. But I am however satisfied with the answer.

Mr. Speaker: Very good! I am also very satisfied!

Mr. Ndicho: You did not hear!

Mr. Speaker: Mr. Ndicho, do you know today is when?
Next Question!

Question No.666

ACREAGE OF OYANI AGRICULTURAL FARM

Mr. Omamba asked the Minister for Agriculture:-

(a) what is the acreage of Government land at Oyani Agricultural Farm in Kanyamkago, Uriri Constituency; and,

(b) whether he could provide a statistical breakdown of the number of dairy cattle reared on the farm from 1991 to the year 2000.

Mr. Speaker: Where is the Minister for it **Mr. Ndicho:** On a point of order, Mr. Speaker, Sir. There is a time we agreed not to have this number "666" on the Order Paper!

Mr. Speaker: Order, Mr. Ndicho! I have never seen the devil and I, therefore, do not know what his number is! Mr. Omamba, what was your complaint?

Mr. Omamba: Mr. Speaker, Sir, I submitted this Question in September and when it appears on the Order Paper, the Minister is not available to answer it. Could you order the Minister concerned to give the answer immediately we come from recess?

Mr. Speaker: Let us wait first.
Next Question!

Question No.721

DISMISSAL OF MR. MUSILI

Mr. Katuku asked the Minister for Labour:-

(a) whether he could inform the House why Mr. Richard Musyoki Musili was dismissed by Concord Insurance Company Limited of P O Box 30634, Telephone No.222771, Nairobi, after working with the Company for 13 years;

(b) whether he is aware that the Company did not remit the statutory NSSF and NHIF contributions for Mr. Musili and other workers; and,

(c) what action he has taken to ensure that Mr. Musili is paid all his dues.

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

(a) Mr. Richard Musyoki Musili was not summarily dismissed. On the contrary, he tendered his resignation vide his letter dated 30th January, 1997 citing personal reasons. Consequently, the company acknowledged his resignation vide its letter dated 31st January, 1997.

(b) Records show that M/s Concord Insurance Company Limited has been remitting NSSF and NHIF contributions for its workers.

(c) The company owes Mr. Musili Kshs359 only. He is free to collect the money after surrendering the company's identification card and other documents in his possession. with regard to NSSF benefits Musili, who is 39 years of age, is entitled to withdraw all benefits which he can claim as soon as he is 50 years of age, as per the NSSF regulations.

Mr. Katuku: Mr. Speaker, Sir, the information I have indicates that this man did not write a resignation letter. In fact, the Criminal Investigation Department (CID) officers confirmed that the purported letter of resignation was written by one Mr. Patel. So, it was a forgery! I have a copy of that letter which is written on the letterhead of the company. I wish to table these documents for the Minister to read them.

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

Mr. Leting: Mr. Speaker, Sir, if it was a forgery, somebody ought to have been arrested.

Mr. Mwakiringo: Mr. Speaker, Sir, could the Assistant Minister lay on the Table the resignation letter which Mr. Musili wrote to the company?

Mr. Leting: Mr. Speaker, Sir, I have a copy of the letter of resignation, written by Mr. Musili and the one the company wrote, accepting the resignation.

Mr. Katuku: Mr. Speaker, Sir, I have informed the Assistant Minister that this case went to the police. The labour officers referred this matter to CID and two officers were sent to arrest Mr. Patel. When they went to his house in Westlands, the officers were taken to the bedroom. When they came out, they told the complainant to go to Central Police Station. But nothing has been done to date. Mr. Patel has never been arrested! Something must have happened in the bedroom! If you look at the signature of Mr. Musili and the forged one, you will realise that they are different. Could the Assistant Minister assure us that he will investigate this matter and arrest this *Mhindi*?

Mr. Kamolleh: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Katuku to refer to a citizen of this country as a *Mhindi*? Is that not being a racist? Could he withdraw that remark and apologise?

Mr. Speaker: Mr. Katuku, that is racist and contrary to the Constitution of this country. I now order you to withdraw that racist remark and apologise to the House!

Mr. Katuku: Mr. Speaker, Sir, because of the seriousness of this matter, I withdraw and apologise. I was actually referring to Mr. C.C. Patel, an Asian who went to the bedroom with the CID officers!

(Laughter)

Mr. Leting: Mr. Speaker, Sir, we have done enough investigations and I do not accept what the hon. Member is claiming. If that was the case, then the complainant should have gone to the police. Furthermore, this complainant had instructed lawyers---

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The Assistant Minister has said Mr. Musili should have reported this matter to the police. But we have been told that the matter was reported to the police, but the police officers were taken to the bedroom! Is he in order to tell us that this man should go to the same policemen who might be taken to the toilets?

Mr. Speaker: Order, Mr. Angwenyi! That is not a point of order!

Mr. Leting: Mr. Speaker, Sir, as I said, this man went to look for a lawyer to write to Concord Insurance on the issue of his termination. But when the lawyer got the company's reply, he did not go back. Furthermore, Mr. Musili was a member of the union. It is funny that he did not bother to go to his union to seek some assistance.

Mr. Speaker: Order, Mr. Leting! When we come to Questions, they are factual. I do not allow hon. Members from the Back Bench to ask speculative Questions. In the same vein, I will not allow anybody from the Front Bench to give speculative answers! If you do not have the information, say so and I will help you.

Col. Kiluta: Mr. Speaker, Sir, in the light of the information given, could the Assistant Minister undertake to go back and investigate afresh and stop relying on the information from those officers who were taken to bed?

Mr. Nguire: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to allege that whoever is taken to the bedroom is taken to bed?

(Laughter)

Col. Kiluta: Mr. Speaker, Sir, I am sorry for that. It was a slip of the tongue. I meant the bedroom. Could the Assistant Minister investigate this matter afresh?

Mr. Leting: Mr. Speaker, Sir, I do not have any information about the bedroom affair. Mr. Musili should see me so that we can investigate that matter afresh.

Mr. Muturi: Mr. Speaker, Sir, this is a case where an employee is purported to have written a letter of resignation. But he says he did not write that letter. The answer from the Assistant Minister seems to doubt the contention by the employee.

Mr. Speaker, Sir, could he give a firm undertaking that he will investigate this matter, with new policemen, with a view to bringing to the House a satisfactory answer? They should get handwriting experts to ascertain whether or not this signature was a forgery.

Mr. Leting: Mr. Speaker, Sir, I am prepared to investigate if this man comes to see me so that I can get to know about this bedroom affair. From there, we will take over.

Mr. Speaker: Mr. Katuku, I would advise you to agree with the Assistant Minister on that aspect. But as you go to see him, bring to his attention the letter by the company, dated 31st January, 1997, accepting the letter of

resignation. You should also look at what the employee was paid as his entitlement. Even the December, 1997, salary was not given! So, the Assistant Minister should study these documents very carefully.

Mr. Katuku: Mr. Speaker, Sir, even the Chair is not satisfied with the answers given by the Assistant Minister. Could I ask the Chair to give him up to tomorrow to go and investigate this matter and report back to this House? According to the documents I have, the CID officers confirmed that this was a pure case of forgery.

Mr. Speaker: I will give the two of you adequate time to go and address this matter.
Next Question, Mr. Muya!

Question No. 753

NUMBER OF HOUSEHOLDS CONNECTED
TO AGUTHI WATER SUPPLY

Mr. Muya asked the Minister for Water Development:-

(a) whether he could give the number of households connected to the Aguthi Water Supply Scheme since its inception and the increase in the monthly charges during the last three years; and,

(b) what specific action he is taking to ensure that the project does not collapse following an outcry by water consumers in the above scheme as a result of doubling of charges in November, 1999 and the survey carried out by CAS consultants.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Speaker, Sir, I beg to reply.

(a) Aguthi Water Supply has a total of 7,986 household connections. During the last three years, there has only been one tariff increase for all rural water supplies under the management of National Water Conservation and Pipeline Corporation and the Director of Water Development, including Aguthi Water Scheme.

(b) In the past, my Ministry has subsidised the services rendered to the consumers of Aguthi Water Supply Scheme. However, due to the rising cost of water production, my Ministry reviewed water tariffs upwards to meet operation and maintenance costs in an effort to improve on service delivery. Effective measures have been put in place to raise revenue for purposes of meeting the costs of operation and maintenance of the scheme.

Mr. Muya: Mr. Speaker, Sir, since the water charges were doubled in November last year, many households were disconnected. I would like the Assistant Minister to tell us how many households still remain connected. Last year, the Minister for Water Development, in an answer to a Question which was asked then, indicated that the scheme was supposed to pay the National Water Conservation and Pipeline Corporation Kshs300,000. It is paradoxical that the Assistant Minister can claim that the Corporation has been subsidising the scheme. He has also deliberately avoided answering part (b) of my Question. Because of the outcry by the consumers, CAS consultants were commissioned to do a research. Could he tell us what was recommended by the CAS consultants?

Mr. Kofa: Mr. Speaker, Sir, I am not aware of the fact that some people have had their water disconnected. If they are there, I do not have the figures here now.

Mr. Kihoro: On a point of order, Mr. Speaker, Sir. I am one of those people who live in that area. I have been disconnected from the water supply. The Assistant Minister says, in his answer, that he does not know of anyone who has been disconnected from the water supply. So, if he wants some evidence to that effect, I would like to inform him that I am also a victim.

Mr. Kofa: Mr. Speaker, Sir, if there are any people who have been disconnected from the water supply, I do not have the figure.

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

Mr. Speaker: Order! Order! Mr. Assistant Minister, the Question was very clear. If you are not sure that there are people who have been disconnected from the water supply, have you made an attempt to find out whether that is the position?

Mr. Kofa: Mr. Speaker, Sir, as I said, the Ministry is not aware of any disconnections. I further said that if there are any disconnections, I do not have figures to show that. Otherwise, I undertake to go back and find out what happened.

Mr. Kibaki: Mr. Speaker, Sir, could you help us? The Assistant Minister claims that he is not aware that people are being disconnected from all the water projects being run by the National Water Conservation and

Pipeline Corporation (NWCPC). People are being disconnected from those water supplies. After you are disconnected, in order to be reconnected, you are required to pay the Corporation's field staff. Is the NWCPC independent of the Ministry? Where does it take the money it collects from the people? That is what happens everywhere; it is some kind of a trade.

If the Assistant Minister is not aware that, that is what is happening in Nairobi, could you send him to the rural areas so that he can find this out for himself? I offer to take him to Othaya Constituency to see for himself what happens there.

Mr. Speaker: Mr. Assistant Minister, would you like a lift to Othaya Constituency?

Mr. Kofa: Mr. Speaker, Sir, hon. Kibaki has made a serious statement - that, if you want water reconnected to your premises, you should pay the officers in the field. I do not know whether he meant to say that the payments are made in the field offices or not. If the payments he referred to are made in the offices, that is okay, because the NWCPC---

Mr. Speaker: Order! Order, hon. Members! Mr. Assistant Minister, this is a serious matter! If members of the public have had their water disconnected, really, it is serious. As I said to Mr. Leting earlier, do not speculate. Either you know what you are talking about or you do not know! If you want time, I will be generous with you; I will give you until tomorrow to check out the facts of the matter.

Mr. Kofa: Mr. Speaker, Sir, I think I implied that although I said that if there are any disconnections, the Ministry is not aware of them--- Whenever water is disconnected---

Mr. Anyona: On a point of order, Mr. Speaker, Sir. You have just ruled that the Assistant Minister should not speculate on the matter. The answer to the question should either be "yes" or "no". Why is he speculating when the Chair has just made a ruling on that?

Mr. Speaker: I am a little handicapped here, because the Assistant Minister was, at one time, a teacher of "yours truly". So, I give him a certain amount of respect.

(Laughter)

But that notwithstanding, I now order that he gives us the correct answer tomorrow.

Mr. Kofa: Thank you, Mr. Speaker, Sir, for accepting that I was your teacher. I also accept to come back with the correct answer tomorrow.

Mr. Speaker: Very well; Question deferred to tomorrow.

(Question deferred)

Question No.353

REGISTRATION OF *DINI YA MUSAMBWA*

Mr. Kombo, on behalf of **Mr. Wamunyinyi**, asked the Attorney-General when the Government will register the *Dini Ya Musambwa* religion.

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

Dini Ya Musambwa is a proscribed society under the Societies Act. As such, it cannot be registered.

Mr. Kombo: Mr. Speaker, Sir, I am sure that you have heard the frivolous answer given by the Attorney-General; this shows how the Government lacks respect for its heroes. The founder of *Dini Ya Musambwa*, who was a great prophet, Elijah Masinde, also fought for this country's Independence. The colonial Government proscribed *Dini Ya Musambwa*, because of the efforts and struggle that Elijah Masinde had put in, in the struggle for this country's Independence. Now, here is our own Government, which lacks respect for this country's heroes, saying that it cannot register *Dini Ya Musambwa*.

Mr. Speaker: Mr. Kombo, could you tell the House what *Dini Ya Musambwa* is? It will be of help to the House.

Mr. Kombo: Mr. Speaker, Sir, most people here know what *Dini Ya Musambwa* is. For your benefit, everybody in this House belongs to *Dini Ya Musambwa*.

(Laughter)

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Member to claim that everybody here belongs to the *Dini Ya Musambwa*? He should either substantiate that remark or withdraw it.

Mr. Speaker: But you did not give him a chance to explain!

Mr. Kombo: Exactly, Mr. Speaker, Sir. I was going to explain. The word "*kimisambwa*" means "superior spirits", and all of us subscribe to superior spirits.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Speaker, Sir. We know that Jesus came with the Bible; he was given that book by God while Mohammed was given the *Koran*.

Hon. Members: So what? That is not a point of order!

The Assistant Minister, Office of the President (Mr. Haji): Mr. Speaker, Sir, other prophets were given other holy scriptures by God. So, we would like to know the book the prophet hon. Kombo is talking about was given by God.

Mr. Speaker: Order! Order, all of you! Religious issues are very intricate, and I am not going to allow this House to be engulfed by them. Anyway, could you now dwell on factual questions? Whether or not we belong to *Dini Ya Musambwa*, that is personal; keep it to yourself. So, Mr. Kombo, just ask the Attorney-General factual questions as to why he has not registered it.

Mr. Kombo: Thank you, Mr. Speaker, Sir. That was just for your benefit, anyway. Why should our own Government refuse to register the *Dini Ya Musambwa* as a legacy, something that it can give to this great prophet, who fought for this country's *Uhuru*?

Mr. Wako: Mr. Speaker, Sir, I am not a member of *Dini Ya Musambwa*. Under our laws, to allege that Members of Parliament are members of a proscribed society is an offence under the Societies Act. Therefore, it is improper that Members of Parliament should be imputed as committing offences under our laws. We recognise the historical contribution to the liberation struggle by Elijah Masinde. I think that is in the annals of history, and it will be there forever. That is different from the spirits the hon. Member is talking about. *Dini Ya Musambwa*, as the hon. Member has explained, was not a political party that was struggling for the Independence of this country. Elijah Masinde was, and that fact has been recognised. *Dini Ya Musambwa* was not a political party; it was a religious society. But the fact of the matter is that it has been proscribed under our laws, and it cannot be registered.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. The Attorney-General is deliberately misleading the House. This Question is being asked in the context of the resolutions the Inter-Parties Parliamentary Group (IPPG) passed in 1997. He knows that the recommendation of the IPPG was that all bans on various societies, including the *Mau Mau* Movement, should be lifted. So, he should explain what has happened.

Mr. Wako: Mr. Speaker, Sir, I am glad that the hon. Member says that, that was a recommendation.

Dr. Kituyi: Mr. Speaker, Sir, I am the custodian of the shrine of *Dini Ya Musambwa* and the burial site of Prophet Elijah Masinde. The colonial Government used the provisions of the archaic Cap. 108 to proscribe *Dini Ya Musambwa* and the *Mau Mau* Movement. At the start of the new millennium, the Government should give us fresh and reasonable grounds as to why it so slavishly follows the prescriptions of the colonial Government and does not register and acknowledge the importance of our own movements, which were partly spiritual but fundamentally political, and which account for the fact that the Attorney-General has become a Member of this august House.

Mr. Speaker, Sir, could he give us reasons why the Government is slavishly following the proscription the colonial Government imposed on both the *Mau Mau* Movement and *Dini Ya Musambwa*, to which I belong?

Mr. Wako: Mr. Speaker, Sir, the question the hon. Member has asked is not related to the main Question. Under our laws, it is a proscribed society, and it cannot be registered.

Mr. Kihoro: Mr. Speaker, Sir, it is important for the Minister to tell this House why the Government is so hostile to an African religion as if it thinks that the African people have no minds, religion and philosophy. Why does the Government not lift that ban on the various religious organisations which are on that list and which have been banned? We have had *Syokimau* in Ukambani, banned in 1938, the *Tent of the Living God*, the *Kaya* and the *Mungiki*. Either you are perpetrating colonialism or you lift the ban. Could you assure this House that you are going to lift the ban on all those religious organisations, including *Mau Mau*?

Mr. Wako: Mr. Speaker, Sir, the hon. Member has mentioned many other societies and associations. I am concerned, as of now, with *Dini ya Musambwa*. I am saying that under the current laws that we have, it cannot be registered, but the Government has been accommodating. It has not imprisoned these people and for as long as they keep peace, we shall not unnecessarily interfere with their operations.

Mr. Wamalwa: Mr. Speaker, Sir, under our Constitution, Section 5, freedom of religion is guaranteed.

The Attorney-General himself has testified before this House, that *Dini ya Musambwa* members have been behaving themselves well since Independence. Given that they have not done anything untoward, and since Independence many religious organisations have been registered, does he not think that given the good conduct of the *Dini ya Musambwa* people, they should now be given legal validity?

Mr. Wako: Mr. Speaker, Sir, I have not said that they have had good conduct. I have said that if they continue to behave in a very peaceful manner, everything will be considered. But as of now, we cannot register it. Section 78 of the Constitution was quoted, and there are obvious limitations to that particular right.

Mr. Speaker: Col. Kiluta's Question for the second time!

Question No.738

PAYMENT OF TERMINAL BENEFITS
TO MR. MUTUKU'S WIDOW

Col Kiluta asked the Minister of State, Office of the President:-

(a) whether he is aware that Mrs. Teresia Mutuku, wife of the late Patrick Masuti Mutuku, File No.AFCO/PERS/880, who was working with Armed Forces Canteen Organisation, has not been paid her husband's terminal benefits; and,

(b) what action he has taken to ensure that Mrs. Teresia Mutuku is paid the dues.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Speaker, Sir, I wish to apologise for coming late.

However, I beg to reply.

(a) Mrs. Teresia Mutuku has been paid a total of Kshs27,000 from the staff pension scheme which was being administered by Barclay Trust Investment Services Limited.

(b) The terminal benefits of the late Mutuku, amounting to Kshs236,698.35, are being withheld by the Kenya National Assurance Company under liquidation which means that his benefits can only be released if and when the problems facing the KNAC are sorted out.

Col. Kiluta: Mr. Speaker, Sir, I have a lot of respect for this Minister, but this time it would appear as if--

Hon. Members: Why?

Col. Kiluta: Mr. Speaker, Sir, I have been respecting him for the way he has been handling Questions in this House, but this time, it looks like he just met the Question on the way. The late Mr. Mutuku did not have a contract with the KNAC. He had a contract with AFCO. So, the answer about the KNAC does not hold any water. Could he tell us when AFCO will release that money because Mr. Mutuku never had any contract with the KNAC?

Mr. Sunkuli: Mr. Speaker, Sir, I have just had the occasion to discuss this issue with the hon. Member, while he was seated out there. He raises an issue that I cannot state right now whether or not Mr. Mutuku had a contract with the KNAC. So, if the hon. Member wishes to know that, I could go and check on that matter.

Mr. Speaker: Could you check on that and bring an answer tomorrow?

Mr. Sunkuli: Yes, Mr. Speaker, Sir.

Next Question!

Mr. Omamba: Mr. Speaker, Sir, I have not seen the written reply to my Question.

Hon. Members: So what?

Mr. Speaker: Would you like to ask it?

Mr. Omamba: Mr. Speaker, Sir, my Question is No.666.

Mr. Speaker: Very well, I will ask the Question for you!

(Laughter)

Question No.666

ACREAGE OF OYANI AGRICULTURAL FARM

Mr. Omamba asked the Minister for Agriculture:-

(a) what the acreage of Government land at Oyani Agricultural Farm in Kanyamkago, Uriri Constituency is; and,

(b) whether he could provide statistical breakdown of the number of dairy cattle reared on the farm from 1991 to the year 2000.

Mr. Speaker: Anyone here from the Ministry of Agriculture and Rural Development? I will defer the Question. We will try our luck tomorrow!

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

IMPLEMENTATION OF IPPG RECOMMENDATIONS

(Mrs. Ngilu) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that chiefs are still forcing people to apply for permits when they want to meet, contrary to 1997 IPPG recommendations?

(b) What action does the Minister plan to take to ensure that the chiefs observe the law and that these permits are outlawed?

Mr. Speaker: Mrs. Ngilu not here? Her Question is dropped.

(Question dropped)

Next Question!

INVASION OF PRIVATE FARMS IN OL MORAN

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

(a) Is the Minister aware that large herds of cattle have invaded private farms in Ol-Moran Division of Laikipia West, thereby destroying crops?

(b) Is he further aware that the herdsmen are armed with sophisticated weapons?

(c) What urgent measures is the Minister taking to move the herdsmen from these private farms?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that as a result of the severe drought, herdsmen from the neighbouring districts moved their livestock into parts of Laikipia District. With the onset of the rains, farmers had prepared their farms and of late, we have had cases of animals straying into some of those farms due to the negligence of the herdsmen.

(b) There is no evidence to show that these pastoralists are armed with sophisticated weapons.

(c) With the onset of the rains, this problem is expected to ease. In the meantime, the Laikipia, Baringo and Samburu Districts Security Committees are making arrangements to move out the pastoralists peacefully.

Mr. Mbitiru: Mr. Speaker, Sir, I am grateful that the Minister is aware of the invasion of farms in Laikipia by the animals from the neighbouring Samburu District. I am surprised to hear that the Minister is not aware of the weapons. The clashes that were occurred there in 1998 resulted from the invasion by the same Samburus of the farms in Laikipia.

Mr. Speaker, Sir, is the Minister telling this House that the farming community in Laikipia should not feel threatened when their crops are being destroyed by the animals from the neighbouring district, and when they have suffered for so long due to drought and when they have prepared their farms this time round, and their crops are being destroyed by animals brought in by those herdsmen?

Maj. Madoka: Mr. Speaker, Sir, I do agree that it is unfair for the farmers to suffer. But we have no evidence to show that these herdsmen are heavily armed.

Eng. Toro: Mr. Speaker, Sir, the Minister is pleading ignorance because the fact is that the herdsmen are grazing on private farms because they are armed. If they were not armed, the private farmers would be able to expel them. Who will protect the private farms if the Government does not protect them bearing in mind that the herdsmen from Samburu are going there in order to save their own herds of cattle? What about the private farms that they are destroying? Are those farmers not entitled to safety of their property?

Maj. Madoka: Mr. Speaker, Sir, the Government has the responsibility of protecting these farmers.

Mr. Ndicho: Mr. Speaker, Sir, I really sympathise with the farmers from hon. Mbitiru's area because of the invasion by the cattle owners. Is the Minister aware that these people are coming to look for pasture for their animals because their large tracts of land have also been taken away by Ms. Kuki Gullman and some other Whites there? Unless you address that issue and remove that *Mzungu* from there first, these people will continue to---

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. Will you subject hon. Ndicho to the same treatment you subjected somebody for saying: "*That Mhindi*"?

Mr. Speaker: Was it actually him again?

Mr. Ndicho: No!

Mr. Speaker: Who was it?

Mr. Ndicho: Forget about Dr. Kituyi, Mr. Speaker, Sir!

Mr. Speaker: I will not forget! Will you withdraw that remark? It is racist!

Mr. Ndicho: I said Kuki Gullman. Is that a *Mhindi*? She is a *Mzungu*.

Mr. Speaker: Order! Next time you will be saying: "That Kikuyu, that Jaluo that Maasai" or whatever. I will not stand that! You are at liberty to refer to a person by name, but do not be racist. Please, it does not do you any harm to withdraw that remark and make your point. Go ahead!

Mr. Ndicho: I withdraw that remark, Mr. Speaker, Sir.

When will this Government repossess all the land that was taken by foreigners in this country so that people do not leave their ancestral land to go and graze their cattle on hon. Mbitiru's land? They should get back their land! They should stop going to hon. Mbitiru's place.

Maj. Madoka: Mr. Speaker, Sir, that does not fall within my docket. On the question of the pastoralists, we have agreed that they normally move into this area to graze their animals. These pastoralists have started moving out of the area because of the rains.

Mr. Mbitiru: Could the Minister confirm or deny that as a result of this Government arming the herdsmen who are employed by Rtd. General Lengees, whose herds mainly graze on the private land in the whole of Laikipia West, Ol Moran Division, we had clashes in 1998, and there is no chance of the farming community protecting itself against these aggressors? Secondly, if he cannot contain the situation using all the askaris he has all over this country, could he consider enlisting the services of the *Mungiki*? They can expel those people out of Samburu.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. I am against the word used by the hon. Member; "aggressors". My grandfather, whom I am named after was called ole Muger and he was a Maasai. There is no way that some hon. Members can say here that some people have a right to protect their crops when the pastoralists, of whom my grandfather was one, do not have a right. Could he withdraw the word "aggressor"?

Mr. Mbitiru: Mr. Speaker, Sir, I only said in very simple terms that the Government has no capacity to contain insecurity in Laikipia West. If they cannot do that, why can they not let the Kenyans protect themselves? We can enlist the support of all those groups including the *Mungiki*, if it is possible.

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to agitate war against the Government by offering to enlist the services of subversive elements in this country?

Mr. Speaker: Order, Members! Mr. Mbitiru, you can see the reaction of your colleagues to your deviations from the original Question. I thought you were on very safe track when you were asking the Minister to take action. I do not know why you should be asking the *Mungiki* to come and do this job for which they are very ill-suited. Could the Minister answer the correct question? Leave *Mungiki* out of this!

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. Is hon. Muchiri in order to imply that *Mungiki* is a subversive organisation? He should leave *Mungiki* out of this.

Mr. Speaker: Order! What I can do is to ask you to move next to him and argue about that issue. When you have arrived at a reasonable conclusion, let me know.

Mr. Minister, would you like to respond?

Maj. Madoka: Mr. Speaker, Sir, first, I want to deny that we have armed Rtd. Gen. Lengees and his group. He is not armed by the Government.

Mr. Mbitiru: Mr. Speaker, Sir, is the Minister in order to mislead this House that Rtd. Gen. Lengees' herdsmen are not armed while, for sure, even donkeys that are grazing there have guns tied on their bellies? That is why the people of Laikipia cannot even move closer to these animals. These are the herdsmen that are armed by Rtd. Gen. Lengees and his community. Is it in order for the Minister to mislead this House? If he has no information, can I invite him to my constituency for him to see the donkeys carrying --- I do not know which war they want to fight in Laikipia.

Mr. Speaker: Mr. Mbitiru, are you saying that donkeys are armed?

(Laughter)

Mr. Mbitiru: Yes, Mr. Speaker, Sir. They are using the donkeys as the transporting vessels for all those

guns!

Mr. Speaker: Order! Mr. Minister, we shall hear a lot today!

Can you proceed?

Maj. Madoka: Mr. Speaker, Sir, I accept his invitation.

Mr. Speaker: Very well.

Next Question!

GOVERNMENT POSITION ON TITANIUM MINING

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

(a) What is the official Government position concerning mining of titanium reserves in Kwale District?

(b) Could the Minister consider commissioning an independent study on environmental impact assessment before entering into any contract for this project?

The Minister for Mineral Exploration (Mr. Kalweo): Mr. Speaker, Sir, the matters referred to in the Question touch on an application that has been filed in the High Court of Kenya, Nairobi. It would, therefore, be *subjudice* to answer the same.

Dr. Ochuodho: Mr. Speaker, Sir, my Question has two parts. I think the Minister attempted to answer part "a" of the Question which is the easier one, but he has not answered part "b". In any case, I have not even got a written reply.

Mr. Kalweo: Mr. Speaker, Sir, there is no way I can deliberate on this Question without touching on the matters before the court.

Dr. Kituyi: Mr. Speaker, Sir, there is a matter about licensing this company in Kwale which is before a court of law. A Government commitment to do a pre-investment environmental impact assessment cannot be a dispute before a court of law. Could you accordingly, advise the Minister who has volunteered an opinion about part "a" of the Question which is *subjudice*? During the Annual Conference of Geologists you spoke *subjudice* about this matter. Could you now leave the *subjudice* matter and talk on the environmental policy matter which has nothing to do with the Question?

Mr. Speaker: It is about the effects on the environment?

Mr. Kalweo: Mr. Speaker, Sir, what the Member is alleging is falsehood because I did not touch on any matter at that time. This was written by the Press, but I did not say it.

Mr. Kibaki: Mr. Speaker, Sir, this matter is very fundamental to the nation because as you are well aware, the resource of titanium in the whole of the Coast region is actually enormous. We are asking whether he is still of the mind of licensing someone individually or a company, thereby giving away the wealth of the nation when he has no such capacity. He should not do it! Our wealth should not be given away! This is a matter of principle and not duty because the Minister should commit himself. We want this wealth to be mined by Kenya and the money spent in Kenya.

Mr. Kalweo: Mr. Speaker, Sir, I remember some time back, I issued a Ministerial Statement here as far as this matter is concerned. I am not unable to deliberate on it. However, there is nothing that I can say which will not touch on the matter before the courts and so, do not force me to cross the river before I reach the bridge! I have the facts and I will come to this House and deliberate on them.

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

Mr. Speaker: Order! Order, all of you! Can I get the following information from the Minister: Since you have said the matter is in court, it is between who and who, and over what?

Mr. Kalweo: Mr. Speaker, Sir, I think I can lay it on the Table here because I remember---

Mr. Speaker: Tell me first!: The case is between who and who?

Mr. Kalweo: Mr. Speaker, Sir, the case is a matter of an application for an order for prohibition and in the matter of the Environmental Management and Co-ordination Act, 1999 and the Mining Act, Cap. 306 and in the matter of the proposed titanium mining project between the public versus the Minister for Environment and Natural Resources, the Commissioner for Mines and Geology, National and Environmental Management Authority *ex parte* for Katama Mkangi, Dr. Gideon B. Njari, Ngorongo Makanga interested parties and this is the list of their arguments.

Mr. Speaker: What are the issues?

Mr. Kalweo: Mr. Speaker, Sir they say:-

"(a) The legal team acts jointly for Prof. Katama Mkangi, Dr. Gideon B. Njari and Ngorongo

Makanga or whoever, that the interested parties filed the application for leave to apply for judicial review---

Mr. Maitha: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead this House that there is a court case against the Question he has been asked? If he knows that, what is contained in that court order does not even touch on what he has been asked here. Could he answer what he has been asked, which is not part of that court order? We have that copy and it does not touch on anything.

Mr. Kalweo: Mr. Speaker, Sir, let Members be patient, since I have nothing to hide. The interested people on the matter of importance like titanium mining in Kwale District is a national issue which, if I continue answering any question--- I have the answers which I can give but I am not ready to deliberate on these issues because the answers which I will give will touch on each and everything.

Mr. Speaker: Order! Order, Members! I hope the Minister lays that court document on the table. I will look at it and communicate to the House tomorrow, whether the issue he is relying on is correct or not. As far as I know, I have not seen that document. So, I do not know. So, I will study it and, since the Question will come tomorrow, I will then make a decision.

Mr. Kalweo: Mr. Speaker, Sir, I have already forwarded a copy to your office.

Mr. Maitha: On a point of order, Mr. Speaker, Sir. Having heard your ruling on this matter, could you still order the Minister to come to this House with all the answers on the same project, so that if we want to be answered, he has all the facilities we need?

Mr. Speaker: Order! I will have to look at this and if what you are asking me to order him to bring are the things that are supposed to go to court, then I will say: "No, I will not", because I am not a judge.

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. Going by the reply the Minister is giving, he is on record that it was stated that the Government intends to start mining in January. I gather from his statement that he is withdrawing. He is saying that, that is not right. Be that as it may, could this Minister, in bringing an answer tomorrow, also ensure that---

Mr. Speaker: Order, Dr. Ochuodho! You see, although it is Christmas time, I must remind you of what I said in November, that you seem to have the feeling that unless you have said something on a Question, nothing has been said! So, you are just repeating what everybody else has said!

Dr. Ochuodho: But it is my Question, Mr. Speaker!

Mr. Speaker: Order! Mr. Minister, just for clarification, did I understand you to say that--- Who is making life unbearable for you? Just for clarification, did I understand you to mean that the statement that quoted you in the newspapers that mining will begin in January - is it the one you are refuting?

Mr. Kalweo: Mr. Speaker, Sir, I did not say that! I would not have said so because as far as this project is concerned there are stages and other issues which must be addressed by the company before the licence is given out. The Mining Act has some processes to be followed and there are drastic requirements that any potential mining company must fulfil. Therefore, these stages have not been discussed between the Government and that company. Therefore, by saying January or whatever, is irrelevant.

Mr. Maitha: On a point of order, Mr. Speaker, Sir. The Minister is still misleading this House. If he knows very well that next week he is issuing this company with a certificate, and it is ready in his office since he is being pushed by hon. Biwott to do so, could he now confirm that he will not issue that licence until that matter is sorted out in court or answer this Question now?

Mr. Kalweo: Mr. Speaker, Sir, that is speculative on the part of the hon. Member. I have said that there are stages which any company wanting to carry out any mining activities in this country must follow. It is clear and this is why I said it before. I will come to this House with all the information.

Mr. Speaker: You will do that tomorrow? Yes, Mr. Kibaki! We must get out of this.

Mr. Kibaki: Mr. Speaker, Sir, we need your guidance. The hon. Minister, in his reply, is still implying that he intends, at some stage, to issue a licence to a company or to an individual to mine titanium in Kenya and the resources available are not only in Kwale District but the whole of the coastal belt and it is in billions of tons. What we are asking him is a point of principle; that, the mining of such wealth which belongs to Kenya should not be given to a foreign company but mining should be by Kenyans, by the Kenya Government, possibly jointly with another technical person, so that the mines remain Kenyan. However, he is still persisting that he wants to give a foreign company the right to mine. Is he not selling us away for the small monies that they are being given?

Mr. Kalweo: Mr. Speaker, Sir, hon. Kibaki wants to put some words into my mouth which I have not said. What I said is that in any contract, any company, or individual, even a Kenyan one, there are processes to be followed and it will be a public issue so that everyone can deliberate on this issue. When time comes all Kenyans will be allowed to deliberate on this matter and reach a consensus.

Mr. Speaker: The Question is deferred to tomorrow. That is the end of the Question Time.

(Question deferred)

MISUSE OF LATF MONEY

(Mr. Ndilinge) to ask the Minister for Local Government:-

(a) Is the Minister aware that money disbursed to Makueni County Council through Local Authority Transfer Fund has been misappropriated by senior council officers in collaboration with contractors and a few councillors?

(b) Could the Minister provide a breakdown of expenditure on projects in each location indicating the contractors in each case?

(c) What action has the Minister taken to punish those involved?

Mr. Speaker: Mr. Ndilinge's Question is also deferred to tomorrow.

(Question deferred)

NOTICE OF MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

INSECURITY IN NORTHERN KENYA

Dr. Ali: Mr. Speaker, Sir, I wish to bring to your attention my intention to move the following Motion for the Adjournment, pursuant to provisions of Standing Order No.20. THAT, in view of the current insecurity in the whole of Northern Kenyan, especially Wajir North Constituency, which has resulted into great loss of human lives, livestock and property; this House urges the Government to take urgent and definite measures to end the brutal attacks and restore peace and security in this region.

Mr. Speaker: Order, hon. Members! I think I do find, for the hon. Member, that the matter is definite, urgent and of national importance. Do you have any support?

*(Several Members stood up
in their places)*

Dr. Ali, you have enough support. So, I will allocate you time, from 5.00 p.m. to 6.30 p.m. Today, I am generous. Therefore, I will give you one-and-half-hours.

POINT OF ORDER

CLARIFICATION OF MINISTER'S REMARKS ON BILLS IMPLEMENTATION

Mr. Donde: Mr. Speaker, Sir, I rise to request a Ministerial Statement from the Minister for Finance on the remarks he made yesterday immediately after the Committee of the whole House. Those remarks have created some doubts about the smooth implementation of the Bill. As a result, hon. Members are very much anxious to get those remarks clarified. Indeed, the country is anxious. He made remarks that it would be difficult for him to implement the Bill as passed in this House. The country is very anxious to know what the problem is.

Mr. Speaker, Sir, when Kenyans sent us to this august House to solve problems--

Mr. Speaker: Order! Are you debating, Mr. Donde? You have made your point. That is enough, I will not speak for the Minister because he will come and speak for himself. But one thing I want to say is that I will not allow Mr. Donde or any other hon. Member to police the statements made by other Members. Every hon. Member is entitled to an opinion. So, that is the business of the Minister. But I do not want to encourage hon. Members to police other Members when they proffer an opinion.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, the gracious lady told me that she had discussed with you and that there is a Question on the same matter and we wait until that Question is answered.

Mr. Speaker: Very well.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. I would like to get a clarification from you. When a Minister is contributing in this House does he give his opinion or the Government's opinion? What is the position when a Minister is replying to a Motion which has been passed by the House?

Mr. Speaker: Order! Mr. Angwenyi, I have just told the House that I will not want hon. Members to police each other's opinion. As to whether or not it is a matter of fact, I have already said the Minister will come and say. But also, please, as you police each other, do not police the Chair!

Mr. Angwenyi, every time I make a ruling you stand up and you want to take issue with the Chair!

Mr. Angwenyi: Mr. Speaker, Sir, I was only seeking your guidance.

Mr. Speaker: Very well. I think the Minister will come and say what it is on the Floor of the House. I think it is in his own interest that he clears the air.

Next Order!

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(The Attorney-General on 5.12.2000)

(Resumption of Debate interrupted on 5.12.2000)

Mr. Speaker: The Attorney-General was moving the Bill!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, to recap, yesterday I talked about the amendment to the National Assembly and Presidential Elections Act which are meant to provide for continuous registration of voters. As you know, at the very basis of any democratic system is the right of a person to vote at periodic elections. Therefore, the essence of this is to ensure that at any election, all persons who qualify to register as voters have been registered. The previous system of registering voters just, before general elections, has tended to end in a number of people who qualify to be registered as voters not being registered as voters. Consequently, their right to participate in those elections has not been exercised because of the limited time which the voter registration exercise is given under our current legislation. Even with extension of the limited time under the law, not everybody has qualified. There has always been an outcry, just before the election starts, of many people saying "we have not been registered." Therefore, the system of continuous voter registration is very important.

Mr. Speaker, Sir, the amendment provides for a combination of the Principal Register which is updated. Once that exercise is complete, we will transmit, to every registration officer, a copy of that part of the register relating to the constituency. This is because it is envisaged that the continuous registration of voters will not take place at the constituency. Even if at the initial stages, it will be under constituency, it will be definitely be at the level of the district headquarters. So that any person who obtains an identity card on attaining the age of 18 years can proceed and be registered as a voter. So, that is the amendment to the National Assembly and Presidential Elections Act.

Mr. Speaker, Sir, the other amendment is to cater for Kenyans abroad. The current amendment is only limited to the staff, spouses and members of the family working at our embassies abroad. That is why it is provided that there will be a diplomatic register which will be kept by the Minister and that the ambassadors will be the returning officers for the purposes of the National Elections Act.

We did discuss this issue very exhaustively during the Parliamentary Departmental Committee and it was felt that to appoint an ambassador to be the returning officer, and also to appoint a Minister to be the keeper of the register of voters, will be in violation of the constitutional arrangement. Given the fact that they are part of the Executive, it will not be seen that the election is above board.

So, during the Community Stage, we shall be bringing amendments to delete "Minister" and "Ambassador" in their respective roles and simply state that the Electoral Commission of Kenya (ECK) will appoint the person who will keep the Diplomatic Register and that the (ECK) shall also appoint a Returning Officer.

It was also felt in the Departmental Committee that why only confine this right to the members and staff of our diplomatic community abroad whereas we know very well that there are tenths of thousands of Kenyans

who are adults and are overseas? In fact, today, in the United States of America (USA), the United Kingdom (UK) and India, Kenya is almost surpassing even Nigerians by the number of students who are there and are over 18 years old and by the number of persons who work there and so on. So, it was felt that this should be extended even to those people.

Mr. Speaker, Sir, this is an issue that I would like to hear the views of this National Assembly because the ECK, as of now does not have the necessary staff, logistics, capability of conducting or involving our Kenyan communities abroad. In fact, in the world today, the countries which have given this facility to those of their nationals who are residents abroad are the very developed countries, such as the USA and so on. Even in the USA, for those who have been following the counting of the votes in the Presidential election, re-counting and taking into account the absentee voters - that is those voters outside the country, that has also become an issue. So, the ECK does not have the capacity now to do it. That is why it felt that we could proceed by stages, deal with the diplomatic staff at our embassies and extend it also to many Kenyans who work in our international organisation.

I know as a fact that there are many Kenyans who work at the United Nations offices in New York, Geneva, Vienna, the World Bank and the International Monetary Fund (IMF). Maybe, you can also extend the facility to them and then they can by stages prepare properly on how they can involve other Kenyans. But whether we should proceed by stages, the way the ECK would like because of the capacity, or whether we should not even consider any Kenyan abroad until the ECK has the capacity to involve everybody is an issue on which I would like to get the views of the hon. Members of Parliament when they will contribute to this important debate.

So, the amendments to the National Assembly and Presidential Elections Act are just mainly for continuous registration of voters and also to cater for a category of Kenyans abroad by facilitating them to participate in elections which take place here.

Mr. Speaker, Sir, to recap, the next group of amendments are under the Advocates Act. I think I did inform this august Assembly, and here I am speaking not just as the Attorney-General, but also as the titular head of the legal profession, that I have been mandated by the entire legal profession to bring amendments to the Advocates Act. I would like to say from the very beginning that during the Committee Stage, there will in fact, be more amendments to be brought up, some altering those ones which are already there, but all the amendments which are here and those that will be brought during the Committee Stage, are amendments pursuant to a consultative process which involved all members of the legal profession.

First, there was a Committee which I appointed consisting of the Chairman and the Secretary of the Law Society of Kenya (LSK), members of the Disciplinary Committee and Complaints Commission, which was mandated to address issues of discipline within the legal profession, because of the public outcry on the behaviour of the members of the legal profession. In many respects, theft of clients' money, not accounting for clients' money, not attending court when they ought to and thereby not representing their clients effectively when they ought to have done so, not bothering to reply to letters and so on. There are many complaints which we receive almost on an everyday basis. So, the members of the legal profession were concerned and we asked ourselves: What should we do? Where do our disciplinary procedures fall short, which have given rise to this genuine public outcry against members of the legal profession? So, they came up with recommendations which are reflected in the Advocates Act.

After the publication of the Bill, I held a seminar at the Kenya School of Monetary Studies. This seminar was held on 30th and 31st May, 2000, and the entire Council of the LSK, members of the academic community both of the Faculty of Law of Nairobi and Moi Universities and members of the Judiciary, such as the Chief Justice, judges of the Court of Appeal and the High Court, magistrates, my officers and officers in corporations were present to discuss this issue of how to restore the lost image of the legal profession. That seminar agreed unanimously with the various proposals which will be reflected in this Bill. The recommendations were again further refined at another seminar which was now called by the LSK consisting of the same people, and reaffirmed the amendments. So, I will bring substantive amendments during the Committee Stage on this particular issue.

The amendments under the Advocates Act are meant to strengthen and empower procedures relating to the discipline of advocates; to give additional powers to the Complaints Commission, which initially looks into the complaints against advocates and also gives additional powers to the Disciplinary Committee. It now has the powers to summon, and any person who does not answer to the summons or fails to assist the Complaints Commission and the Disciplinary Committee will be committing an offence. It is also meant to empower the Commission and the Disciplinary Committee to order an advocate whose conduct causes loss or damage to a client to reimburse and compensate him. It is very important that the Disciplinary Committee hearing a complaint, goes into it in details and can, where there is evidence, apart from meting out the disciplinary measures that must be imposed on that advocate in an appropriate case, order compensation and determine the amount so that, that client does not have to go to a court of law and start afresh a case against an advocate. The court of law can after

many, many years - as we know, there are a number of delays in the courts today - order for compensation. By that time, there may be neither a client nor a complainant to talk about.

Mr. Speaker, Sir, where the Commission or the Committee orders reimbursements, then that will be like an order of the court and can be enforceable when registered by the court. It says:

"An order made shall be registered with the court and shall thereupon be enforceable in the same manner as an order of the court."

So, we are dealing with the main thing. I must say that, many complaints had come and their clients are interested in reimbursement.

The Complaints Commission and the Disciplinary Committee are also empowered to tax the Bill on an advocate-client basis. This is very important because a number of complaints had come, even before the police and elsewhere. No more defence has been given, but it is the client who owes the advocate some money and not the other way round because of the fees that the advocate is charging that client.

There is a procedure where a client can ask for that bill to be taxed by the Registrar of the High Court. What happens is that, once it gets to the courts, it is never taxed because either there is an adjournment or the court file is missing. This can go on for a year or two. In the meantime, nothing can happen to that advocate because the issue of determining his fees has not been finalised to know whether what the advocate is asking for is reasonable or not. That is why we are now empowering the Complaints Commission and the Disciplinary Committee in those cases in order to tax the fees immediately to know what the amount the advocate can charge and to order reimbursements. They should take that into account and then order that the rest of the amount the advocate is holding be reimbursed to the client. We feel that this is another way of expediting the hearing of disciplinary cases against the advocates. The current procedure that we have is so cumbersome, but it can take literally a number of years before the advocate is disciplined. We normally say that the machinery of justice is slow. But on this particular one, it is so slow that justice cannot be seen to be done in a particular instance.

Mr. Speaker, Sir, under the Advocates Act, it is also being proposed that the panels of the Disciplinary Committee be increased. Currently, we have just one panel. This one panel is overloaded with numerous hundreds of thousands of cases against the advocates. We are proposing that instead of just having one panel, we should have three, which can be hearing these cases simultaneously, at least, to clear the backlog that already exists.

Mr. Speaker, Sir, we are also saying that this is an innovation which I hope other professional bodies will follow. We are also saying that, whereas under the current law, only senior advocates can sit on the panel to discipline the advocates, that, on each of these three panels, at least, there must be one person who is not an advocate. In other words, at least, there must be one person who is the consumer of justice; who is representing the client's interests; who is not an advocate, but a layman, a well knowledgeable person in these matters and, of course, who is well respected and whose moral integrity is known. This one person should be appointed by the Attorney-General, on the recommendations of the Law Society of Kenya. So, we are introducing that innovation on the Disciplinary Committee so that professional matters should not just be left to professionals to judge and discipline their own professionals. This is because you get many complaints; not just about lawyers, but also about other professionals. It is argued that, professionals tend to protect their own. In other words, a layman may have a genuine complaint against a lawyer, a doctor, an engineer, an architect, *et cetera*. But when it goes before the disciplinary procedure of that professional body, the complaint or the perception has been that, that professional disciplinary body will tend to protect their own, where they can. We are saying now that, let us avoid that by ensuring that on each of these panels, we have, at least, a layman who is not a lawyer; who will be there, at least, to check whether the professionals are really protecting their own or not. This will ensure that justice is not only done to the client, but justice is seen to be done.

Mr. Speaker, Sir, under the Advocates Act, we are also proposing what we call "cross-border" practice. As you are aware, on 30th November, 1999, I can recollect that Mr. Speaker, was there, and I was there and we both witnessed the signing of the Treaty for the establishment of the East African Community by our Heads of States. The Chair is also aware that all the three countries have ratified that Treaty. Kenya, Uganda and Tanzania have all incorporated the provisions of that Treaty into their local legislation. This National Assembly passed that Bill. The Treaty for East African Community calls for closer co-operation between the people of East Africa, the business community and various professional bodies, amongst whom are lawyers and members of the legal profession.

Mr. Speaker, Sir, the proposed amendments will facilitate the hearing of cases and, therefore, if you are an advocate in Kenya, you can also be an advocate in Uganda and Tanzania and actually handle cases and legal matters that arise from those countries. In the older days of the East African Community, although it was not there specifically, the procedures were very easy. I know that a number of senior lawyers who are now retiring; Georgiadis and Kapila amongst them, were actually advocates not only for Kenya, but were also registered as

advocates in Uganda and Tanzania, some even in the Seychelles and so on.

Mr. Speaker, Sir, we want to recapture that so that the members of the legal professionals in East Africa as a whole, feel that we are one community. In fact, they have gone ahead and established the East African Law Society.

I am glad to say that the current Chairman of the East African Law Society is now a Kenyan! So, we want to be able to do so. May I go further and say that, I have some self interest because I come from the border town of Busia. One day, when I retire, I want to be able to have a circuit. I will appear in a court at Busia, then proceed to Jinja, Mbale and go across the lake to Mwanza and, by Friday, be back at Busia. That will facilitate those of us who live at the border, to go round the three territories with ease. The amendment is to facilitate across-the-border practice.

Mr. Speaker, Sir, as it is rightly said, it will become effective only when Tanzania and Uganda enact a similar legislation. We do not want to permit them to come here, while they cannot permit us to go to their territories. That is why it is clearly stated in the proposal that, this particular issue will become operational when the two countries pass similar legislations. I know, through the East African Law Society and, through the other two Attorney-Generals of Uganda and Tanzania that, they are well on their way to doing just that.

[Mr. Speaker left the Chair]

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

So, those are some of the key amendments that we are proposing to the Advocates Act. They go on up to page 554 of the Bill. There are about 39 amendments, but when I bring in some amendments at the Committee Stage, there will be about 43 different Acts of Parliament, that the Bill will be dealing with.

The other amendment is on Extradition, Contiguous and Foreign Countries Act. It is a small amendment. It is just to ensure that the word "magistrate" in that Act means also "the chief magistrate." That will enable the chief magistrate to deal with cases under that particular Act.

We then come to amendments under the Police Act. The Bill proposes to amend the Police Act in order to provide for use of X-ray or other electro-magnetic ray photographs by the police in the course of their investigations into drug-related offences. That is very important. We have seen a number of cases at the Jomo Kenyatta International Airport (JKIA), of various nationals - who could be Nigerians or others - arriving from some countries in transit to other countries, and they are suspected of being drug traffickers. The way they do it is to swallow the pellets into their stomachs. We have heard that the only method the police use is to ensure that the suspects eat *ugali*, *irio*, *githeri* and bananas. They are kept for some time until they go to help themselves. The police then have to separate that from that! That is odd! It depicts a very backward society. In other countries, they use the electro-magnetic ray photographs to know whether the person is carrying something in the tummy. We want that to be introduced here. Once it is used, in the course of the investigations, if by any chance nothing is found, then we provide that whatever has been taken must be destroyed. If the person wants it, it is added over in a situation where the person is not carrying anything. It is also a penalty not to co-operate with the police in that particular regard. So, that is the amendment to the Police Act.

Mr. Temporary Deputy Speaker, Sir, there is an amendment to the Firearms Act. The general thrust of that amendment is to increase penalties under the Firearms Act. As you know, because of the proliferation of arms into the country from the neighbouring countries, that has created a very serious security situation. It has also contributed to an escalation of offences which involve violence. Only last week, the Standing Committee on Human Rights presented to the President its Report on the Isiolo situation. One of the major issues that they raised was the issue of arms. The amendment is to increase the level of penalties, fines and sentences that can be imposed by a magistrate under that Act. One of the new offences created there is under Section 11(a) where it is proposed that:

"Any person who obliterates the serial number of any firearm in his possession, or is found in possession of a firearm the serial number of which has been obliterated, shall be guilty of an offence and liable for imprisonment for a term of not less than five years, but not exceeding ten years."

There is no option of a fine. Most of those arms caches came in with obliterated serial numbers. So, that is the purpose of the amendment to the Firearms Act.

Mr. Temporary Deputy Speaker, Sir, there is an amendment to the Moi University Act, which is really to give power to the Chancellor to establish colleges within the university, consisting of such faculties, institutes and schools as may be prescribed under the Order. That is merely to make the Moi University just like any other

public university. That power was contained in the Bill but, somehow, it was omitted when we enacted the Moi University Bill.

I will not mention all the amendments, but just a few of them which I think are important. The other one is an amendment to the Workman's Compensation Act. We are increasing the category of the workers who fall under that Act. Right now, the workman is described under that Act as a person who earns up to Kshs48,000 per annum. That works out to Kshs4,000 per month. In other words, if you are a worker, and earn more than Kshs4,000 per month, you do not come under the provisions of that Act. Obviously, when the Act came into force, Kshs4,000 per month was a high figure. But now, I would bet that even the domestic servant of the hon. Member for Kabete earns more than Kshs4,000 a month. Therefore, he cannot benefit from the provisions of the Workman's Compensation Act. So, we want as many workers as possible to benefit under the Workman's Compensation Act. Therefore, we are raising that figure to Kshs40,000 per annum, which works out at roughly Kshs35,000 per month. So, any person who earns up to Kshs35,000 will benefit from the provisions of the Workman's Compensation Act.

Mr. Temporary Deputy Speaker, Sir, we have proposed amendments to the Public Health Act and the Food, Drugs and Chemical Substances Act. These amendments are mainly to increase the penalties under those Acts. When this Bill is being debated, the Ministers responsible for administering those Acts will be able to contribute and touch on why those amendments of increasing penalties are necessary as of today.

Mr. Temporary Deputy Speaker, Sir, then we have proposals on the Seed and Plant Varieties Act. This may appear to be a very dry subject, but it is very important for our own development. The Bill proposes to make several amendments to the Seed and Plant Varieties Act which has been necessitated by Kenya assenting to the International Union for the Protection of New Plant Varieties Convention on the protection of new varieties of plants. It also proposes to enhance the penalties under the said Act.

Mr. Temporary Deputy Speaker, Sir, we have amendments to the Kenya Airports Authority (KAA) Act and I believe the Minister responsible will also speak on that. So, I do not really have to say much on the proposals, just except to say that the proposals are meant to give the Authority more say in the management of its affairs. It is proposed to amend Section 5(2) to provide for the tenure of office and the procedure of meetings. In fact, the rules of procedure are attached to the proposed amendments. It is proposed to insert a new Section 6A to define the powers of the Managing Director of the Authority. It is also supposed to empower the Board to employ officers and decide on the remuneration and so on. Basically, this will ensure that the Authority enjoys operational autonomy. It will also widen the scope of the Authority's supervisory responsibilities over its employees. I hope that when we come to debate on that, again the Minister responsible for implementing that Act will speak on it. Indeed, as I said earlier, this Bill touches on 42 different Acts of Parliament, most of which are implemented by various Ministries. It is my hope that those Ministries will contribute to this Bill, at least, on their portion of the amendment so that hon. Members can make an informed contribution to the debate.

Mr. Temporary Deputy Speaker, Sir, the next amendments touch on Transport Licensing Act. Again, those amendments are meant to give more authority to the licensing authority to summon people to appear before them. I hope the Minister responsible will speak at length on it.

Mr. Temporary Deputy Speaker, Sir, then we have the Exchequer and Audit Act. The initial amendments are few. It is just to create the post of the Investment Secretary as was recommended by the Public Investments Committee (PIC) in its Report to the House. But I want to give notice that I will introduce substantial amendments dealing with the Exchequer and Audit Act. In fact, I may at an appropriate time rather than bring those amendments, bring up a separate Bill altogether to deal with what is required to be done under the Exchequer and Audit Act, and the roles of the Controller and Auditor-General, and the Auditor-General (Corporations), if any. So, I may have to remove these amendments from this Bill and bring a Bill on its own to deal with the Exchequer and Audit Act.

Mr. Temporary Deputy Speaker, Sir, we are proposing amendments to the State Corporations Act. The purpose of this amendment, again, is in compliance with the recommendations that were made by the PIC to the effect that the granting of an exemption to a corporation from the provisions of the State Corporations Act should not mean that, that corporation is not subject to the provisions, say, of the Exchequer and Audit Act. This is because a number of corporations which had been exempted were saying that they do not fall under the Auditor-General (Corporations), and that they would rather hire private auditors to audit their accounts. Yet, we know that this National Assembly has a responsibility to ensure that the monies voted for here and which find their way to these corporations have been properly used and accounted for. We do that through the Auditor-General (Corporations). Therefore, for them to say that they are not subject to the Auditor-General (Corporations) will make it very difficult for this National Assembly to carry out its duties as prescribed under the Constitution. So, we are saying in effect that, even where a corporation has been exempted from the provisions of

the State Corporations Act; there are certain sections of that Act which it cannot be exempted from. In other words, they remain applicable even to that corporation which has been granted 'exempt' status. These are Sections 5, 11, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29. But they are all mostly related to financial responsibilities.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Recently when Safaricom was being privatised, there was a rush to exempt it from the State Corporations Act. Can the Attorney-General reassure the House that this was regularly done in the case of Safaricom?

The Attorney-General (Mr. Wako): I am not the Minister responsible and therefore, I do not have all the facts at my hand to comment on that. If this House enacts this Bill, then a corporation which is given 'exempt' status will not mean as before, being exempted from all the provisions of the State Corporations Act. It will mean that, that corporation has been exempted from some and not others. Those which are not others are the sections that I have just outlined.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. My concern is the situation where public institutions which are well known for fraudulent activities and they are repeated over and over in the PIC and PAC reports have sought to be exempted from the Act. They have been encouraged by the Attorney-General to seek that exemption so that they are not under the subject or the control of the PIC and PAC. We must be very careful that we do not safeguard public institutions that have a record of corruption, waste and bad governance.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I do not understand the point of order, but I can still tell this House that nobody enjoys any encouragement from the Attorney-General in the manner suggested by the Member of Parliament for Githunguri. Of course, he is at liberty to contribute to this Bill. But, because he is a Member of the Public Accounts Committee (PAC), I can tell him that, in fact, this amendment is pursuant to the recommendations of that Committee. So, this shows that when the PAC makes recommendations of this nature, at least, action is taken. This amendment is an example of that.

Mr. Temporary Deputy Speaker, Sir, if I may continue, there are those amendments dealing with the Societies Act; I hope that the Minister for Finance will touch on this. There are amendments to the Standards Act, which are mainly meant to give the Kenya Bureau of Standards (KBS) some teeth. As of now, the KBS has no powers to seize or detain any goods for the purpose of testing them to see whether they comply with prescribed standards. So, the slight proposed amendment here is meant to give the KBS that power. Again, I will bring more amendments to the Standards Act, touching on the operations of the KBS, either under this Bill at the Committee Stage or under a separate Bill altogether.

We are also seeking to increase penalties under the Trade Descriptions Act. The proposals to amend the Trade Descriptions Act are, really, meant to enhance the penalty for the manufacture and sale of counterfeit products. Many of our major industries with good names, both locally and internationally, are complaining that there is a dramatic increase in the counterfeiting of their products. This, of course, is being carried on. The fines imposed on those convicted in the few such cases that have been taken to court have been a pittance. This has encouraged offenders to go on with the malpractice with impunity, due to the huge profits they make through the manufacture of counterfeit goods. So, the aim of the proposed amendment is to increase penalties to discourage the counterfeiting of products in Kenya.

Mr. Temporary Deputy Speaker, Sir, we have quite substantial amendments to the TradeMarks Act. The purpose of the amendments to this Act is to make our laws compliant with the Madrid Agreement on International Registration of Marks (MAIRM), to which Kenya is a party. The proposed amendments to this Act provide for the classification of trade and service marks and for powers of the Minister to regulate the registration of international trade and service marks through the Kenya Industrial Property Office. This is a highly technical subject. Many hon. Members may not be immediately aware of the importance of trade marks, particularly, the importance of the proposed amendments, which are meant to make our laws compliant with the MAIRM, which Kenya has already ratified.

If the proposals are enacted by this Parliament, that will enable Kenyan trade marks owners to obtain protection of their trade marks in foreign countries with less formalities and for much less expense than today. Under the MAIRM, a Kenyan applicant seeking protection of his trade mark in several countries needs to file only one application, rather than file an application with each of those countries, through the Kenya Industrial Property Office, in one language, so as to have that mark registered in all those countries. You can see the obvious advantage in that system. Equally beneficial is the participation of Kenya in the MAIRM system will make it easier for nationals of other countries to obtain protection of their trade and service marks in Kenya. So, it is a reciprocal situation, where a Kenyan trade mark owner gets protection on one application throughout those countries as citizens of those countries get protection for their trade and service marks in this country.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Attorney-General has already published Bills on copyrights and industrial property. He is now calling this the Trademarks Bill. Are we confusing perspectives? Could all these perspectives not fall under one Bill instead of having many related Bills?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, the Copyright Bill is very different from the Trademarks we are talking about, which are called "industrial property". They all come under the fabric of intellectual property, whether they are copyrights or trademarks. But in all countries, the two are administered differently, because copyrights touch on matters that are more of artistic nature whereas trademarks touch on matters that are more of industrial design. So, the two are, really, different. I am glad that the hon. Member is aware that I have published the Copyrights Bill, which I hope will be debated by this Parliament very soon. I am proud of that Bill, because I know that, as a matter of fact, it is one of the best Copyright Bills you can get anywhere in the world today.

Mr. Temporary Deputy Speaker, Sir, also pending before this Parliament is the Kenya Industrial Property Bill. This is a very important subject. I think members of the public, generally, do not appreciate the importance of copyright, trademarks and patent issues, among others. The developed countries are where they are today because of trademarks, copyrights and patenting of these rights. If you go there, you will find that the organisation and implementation of these aspects is at a very high level. First of all, they are handled separately. Secondly, they form bodies corporate, which operate almost on a commercial basis. If you go to New York and other cities, you will find that some of the biggest buildings there are either industrial property or copyright headquarters, partly, because of the amount of money they generate.

Mr. Temporary Deputy Speaker, Sir, the Copyright Bill on one side and the Kenya Industrial Properties Organisation Bill on the other side, have been published to enable us to come on a proper footing as far these issues are concerned. Previously, we had lost out because they have been regarded as departments within the Government. Within government, we have got very important departments. During our time, when we were going through the Kenya School of Law, and I think my lawyer colleagues will confirm that, disciplines like Copyright, Trademarks, Patents and others were hardly ever taught. In fact, we were not aware of them at all. But, they are being taught now, and I am trying to learn about them now, and yet those are the areas where the developed world has developed a lot of expertise. There are firms of advocates and attorneys who specialise in nothing else but in intellectual property issues and views. So, the two Bills which the Attorney-General has published are meant to try to make us catch up with the rest of the world, at least, as far as the organisation is concerned so that the infrastructure is there to help us to move on.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could you oblige the good Attorney-General to stop moving those other Bills which are not before the House now?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I am not moving the Bills, but I thought that the Member for Githunguri had asked a very legitimate question which needed clarification. I thought that for the purposes of this Bill, particularly since there are some amendments which touch on the Madrid Convention, I owed it to the Member for Githunguri by trying to explain to him what those issues are all about. I hope that I have clarified to him a bit what that is all about. I also hope that when those Bills come before the House, I will make some very good contributions on them.

Mr. Temporary Deputy Speaker, Sir, the other advantage of the Madrid Agreement is that by participating within its framework--- I am talking about that in great detail because they are issues that I was even asked to explain about in the Departmental Committee on Justice and Legal Affairs. They asked about the advantages of the Madrid Agreement to Kenya. So, I am trying to outline some of the advantages. By participating in the systems, Kenya will also benefit from a harmonised automated system that makes the registration of trademarks fast. Apart from the Bureau in Geneva, member countries including Kenya will be supplied free of charge with equipment for computerisation and automation of the registration process. Kenya has already received workstations composed of computers, printers and the necessary CD Roms. Do not ask me too much about that because I am computer illiterate.

Training of staff is offered by WIPO and participation to meetings is supported. Five, with the current globalisation of trade, protection of trademarks across borders becomes very important. For example, within COMESA countries, a trademark obtained in Kenya should automatically be protectable in other signatory countries such as Egypt, Tanzania, Swaziland, Sudan, Mozambique and others. Sixth, as for Trademark agents, they will still be there and they will work on, although the work may be reduced a bit because of the automated procedure. There are more advantages which I will not touch on now. So, I wanted to show hon. Members the proposed amendments to the Trademarks which will make us compliant with the Madrid Agreement, which we have already ratified and are very important for the country.

I can also now touch on the Narcotic Drugs and Psychotropic Substances Act. The purpose of the

amendments to that Act is to make provision for the disposal of narcotic drugs and psychotropic substances which are seized by the police in the course of their investigations and are to be used as evidence in any subsequent trial. Under the proposed provisions, the police may take samples for the use at the trial and may destroy the remainder of the haul with the approval of the court. We have noticed many instances where narcotic drugs and psychotropic substances are found and then persons are charged in court. Then, we discover that part or a substantial portion of the exhibits have somehow disappeared and that of course, destroys evidence. There would be great temptation on those officers who are involved to interfere with the exhibits, particularly if what has been hauled in by the police is big. This is because of the money that it may attract, which can lead to its disappearance from custody. Therefore, we are saying that we should remove the temptations for these substances disappearing from custody, by enacting a law which will in the course of investigations, avoid such occurrences. Once you capture such exhibits, then,

there are procedures to follow as set up in the Bill, and I call upon hon. Members to look up at page 593 of the Bill. It states as follows:-

"Where any narcotic drugs and psychotropic substance has been seized and is to be used in evidence, both the Commissioner of Police and the Director of Medical Services, or any police or other officer authorised in writing by either of them for the purposes of this Act (herein referred to as the authorised officers) shall in the presence of the person on whose possession the same has been found, the designated analyst, the advocate if any of that person, the analyst appointed by that person because he may wish to appoint an advocate and he may also wish to have an independent analyst---"

Therefore, where that has been seized, in the presence of the accused persons, his or her advocate, his or her appointed analyst, and the analyst of the Government, the whole amount which has been seized will be weighed. Thereafter, the designated analyst and the other analyst who may have been appointed by the suspected persons shall each take and weigh one or more samples of such drugs or psychotropic substances and take away such a sample or samples for the purpose of analysing. After analysing them, the certificates would be signed and given and upon the receipt of the certificates showing the results of the analysis, the authorised officers would arrange with a magistrate for the immediate destruction of the same. In other words, it allows samples to be taken, analysed and certificates to be given. After that, they would go back to the courts, the certificates are looked at and then the exhibit would be ordered for destruction, and everything is destroyed. Then, the trial can take its good time.

So, the purpose of the amendment is to introduce that procedure particularly on trials under the Narcotic Drugs and Psychotropic Substances Act.

There are some amendments proposed to the Kenya Communications Act, and I will leave that to the Minister for Information, Transport and Communications to explain to the House at an appropriate time. There are also amendments to the Books and Newspapers Act. This is on page 559. The purpose of the Books and Newspapers Act is to increase penalties. This is a new offence. It is not in the books as of now. One of the penalties is that a person who sells or distributes either books or newspapers, the publisher of which has not complied with the requirements of Sections 6,7 and 8 which deal with registration, shall be guilty of an offence and shall be liable to a fine not exceeding Kshs20,000 and to imprisonment for a term not exceeding six months. In other words, whoever sells any newspaper or book which has not been registered has committed an offence and if convicted, is liable to a fine not exceeding Kshs20,000 or to imprisonment for a term not exceeding six months.

Mr. Gatabaki: I keep wondering why the Attorney-General wants to return us to the dark ages of censorship and dictatorship with all these kinds of petty amendments that remind us of that---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Gatabaki! Are you on a point of order?

Mr. Gatabaki: This is draconian law. It is time that we realised that the 21st Century---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Gatabaki! If you want to participate in the debate, why do you not just wait until it has been moved and proposed?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, that was not really a point of order. It was his opinion which he can make when he is contributing to this debate. I will reply to him because I have the right of reply at the end of the debate. That is a proposal for debate.

The other one is to increase the penalty for printing a prohibited publication with the amounts which are stated there. Currently, if you are convicted of an offence of publishing a prohibited publication, the fine is not exceeding Kshs10,000 and or a sentence not exceeding one year.

Mr. Kihoro: I am sorry to interrupt, but the hon. Attorney-General should clarify what he calls a "prohibited publication." What is a "prohibited publication" in this country? Can you give us a list of that?

The Attorney-General (Mr. Wako): For people assumed to know the law, "prohibited publications" are publications which the Minister has declared prohibited. They are also those publications which require registration and have not been registered. The penalty is Kshs10,000 or/and a sentence not exceeding one year. In the case of a first offender, to a fine not exceeding---

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

The Temporary Deputy Speaker (Mr. Imanyara): How do you stand up and start addressing the House without---

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

The Temporary Deputy Speaker (Mr. Imanyara): Order! Both of you, sit down! Dr. Ochuodho?

Dr. Ochuodho: Can the Attorney-General explain to us the motive of this amendment to the Books and Newspapers Act because we are moving to an era where there should be more freedom of the Press. Is the intention to muzzle the so-called "yellow press" or "gutter press", or what really is the motive?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I am explaining the provisions of the law. If you want me to explain the reasons, I will do so at an appropriate time. So, let me continue. Do not be so anxious.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Can the Attorney-General show the House and the nation under what criteria does he decide that a certain publication---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Gatabaki!. That is not a point of order. You will have plenty of time to speak on the debate.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, as you are aware, the Attorney-General does not have the power to declare something "prohibited." That power is vested in the Minister responsible for internal security. If you read the provisions of the Penal Code, you will see that it is very much there. It is on the advice of the Prohibited Books Council which was set up as a result of the IPPG recommendations.

Mr. Angwenyi: On a point of information, Mr. Temporary Deputy Speaker, Sir. Is the Attorney-General a Minister or the Attorney-General? Which is which?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, If you go outside this House, you will see that my car has a flag. It is now being proposed that in case of the first offender, there will be a fine not exceeding Kshs1 million or imprisonment for a term not exceeding three years. In case of the second and subsequent offence, to imprisonment for a term not exceeding five years, and shall in addition be barred from printing any newspaper in Kenya or publishing any newspaper printed in Kenya.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. You know very well that your *Law Monthly* was targeted by this speaker and our publication has been targeted by this speaker. Although we will be debating, I want to put it very strongly that the Attorney-General is criminalising what we will achieve in the democratisation process.

The Temporary Deputy Speaker (Mr. Imanyara): Order! I will not allow you to rise on point of orders and raise debating issues.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the Attorney-General say that if you go out of this House, you will see his car with a flag. Is it in order for the Attorney-General to "legalise an offence" if it is already illegal for him to put a flag on his car? Does that make him a Minister if he has put that flag on the car illegally?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I do not know of any offence that has been done on this one.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Do we define a "Minister" by the place he parks his car or by the definition of his job? Even PCs have flags! Are they Ministers?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I presume that the Members of Parliament have read the laws of the land. I would refer the hon. Member to the provisions of the laws of the land which describe who a Minister is.

Ms. Karua: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Attorney-General (Mr. Wako): I do not need that information. I am still going on. I will take it later on. I do not know why people are a bit jittery on this one. Let me assure the Members of Parliament that this proposal is not aimed at members of the Press or any journalist---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Wako. As you know we have until 5.00 p.m. We have an adjournment Motion beginning now. So, you had better wind up. You have 30 seconds.

The Attorney-General (Mr. Wako): With those remarks, I beg to move.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, in seconding, I just want to bring to the notice of the Members that the provisions of the Armed Forces Act to be

amended, unlike what is stated there, it is not Section 89, but Section 7(2) which we proposed to delete and replace with a new Section.

Mr. Temporary Deputy Speaker, Sir, Section 7(2) of the Armed Forces states in effect:-

"A female officer cannot give command to a male officer except if she is ordered to give the command and a male officer cannot accept the command of a female officer except if commanded to accept the command."

We want to delete that in line with the fact that His Excellency the President has actually abolished the Women Service Corps and a female soldier can now serve as a normal soldier and can give orders to male soldiers.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Sunkuli, you may continue tomorrow but now I have to interrupt the business and ask that--- Who is moving the Motion?

**MOTION FOR THE ADJOURNMENT
UNDER STANDING ORDER NO.20**

INSECURITY IN NORTHERN KENYA

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House do now adjourn.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I wish to move a Motion for Adjournment under Standing Order No.20 which states:-

"In view of the recurrent insecurity in the whole of Northern Kenya which has resulted in great loss of human, livestock and property, disruption and dislocation of normal living activities and noting that the frequency and brutality of the attacks; that this House urges the Government to take urgent and definite action to end the brutal attacks and restore peace and security in the region".

Mr. Temporary Deputy Speaker, Sir, my constituency which happens to be Wajir North borders Ethiopia. We have had problems for the last eight months from February this year to date. The last incident which occurred was early this week where 13 people were killed. A young girl of four years was abducted and five people were injured. Before that, a week ago, I was in the constituency in a place called Ajawa and I was attacked, whereby over 200 people invaded that settlement and five people were killed there. Earlier in the year, if I come to the total number of people who were killed in the whole constituency, it can go to over 300 people in the last six months. We have been making noise here. I have talked all over. I have gone to the highest offices concerned but, unfortunately, nothing has been forthcoming.

Mr. Temporary Deputy Speaker, Sir, when we know of the problems in Kenya today, the issue of insecurity is not only common along that area. Even in Nairobi we are more insecure, but when we are talking of 200 people coming in every other week, I cannot call them bandits or tribal clashes but an invasion. These are people who usually come from one point in a neighbouring country. When we ask the security apparatus, the issue is that people always talk of tribal clashes but luckily for now, our PC has come out very clearly on the issue. He has said that these people come from Ethiopia and that they are in Ethiopian army uniform and they come and attack us, kill our people, steal our animals, burn our houses, abduct our young girls and go back to their country. Nobody bothers to follow them because when I asked recently for a Ministerial Statement, the Minister said that Kenya and Ethiopia have very good cordial relations and I have no quarrel with that.

I hope that one is implemented and followed by every side that the Kenyan Government has very good cordial relations with the Ethiopian Government. I have no problem with that. I have no problem. I have no intention of telling the Kenya Government to go to war with Ethiopia. No! The ones who have already died are enough, but what I want from this Government is that it comes out clearly and says what is really happening there. The issue of tribal clashes is neither here nor there. Why should we have--- I think in other parts of Kenya when we talk of tribal clashes in the agricultural areas or in Central Kenya, it is only the tribal clashes of 1992 which were instigated according to some facts, by the system that be.

(Applause)

However, on our side we are nomads. We quarrel over water and pasture, but killing 300 people in five months and the Minister has not left Nairobi, is that not shameful? Him and his Permanent Secretary do not know where North Eastern Province is, forget about my constituency which borders Ethiopia. He does not have any idea. When the PC says---

The Minister of State, Office of the President (Maj. Madoka): On a point of order, Mr. Temporary Deputy Speaker, Sir, I think I must correct one thing. The hon. Member says that the Minister does not really know where North Eastern Province is. Is he in order to mislead this House when I know I operated in every

single corner of North Eastern Province?

Hon. Members: When?

Dr. Ali: When he was a lieutenant, he was in El Wak and that was in 1963, which is history. In those days, Bute was not there.

The Temporary Deputy Speaker (Mr. Imanyara): Has he of late been to North Eastern Province?

Dr. Ali: Sorry! It has changed. A lot has changed. I am talking of the Ethiopian side and he is talking about the Somali side; that is the border with Somalia, and that is in North Eastern Province. When I talk about El Wak in Bute, that is a difference of 400 kilometres. That is a whole world.

Mr. Temporary Deputy Speaker, Sir, if I have to quote from the Ministerial Statement from the Minister, the question I asked was: "When the PC came from a place called Awassa in Ethiopia where they had a border meeting with Ethiopian authorities, and I think everybody must have watched it over the TV, he said that there are a lot of border clashes along the border with Ethiopia and that, there is a lot of insecurity and that we are doing all that we can to make sure that we refrain our people and our forces not to go to another country. However, those people do not respect our territorial integrity. They do not respect Kenya as a nation that they come in. He also said that he had given them a nine day ultimatum to return an abducted girl from Marsabit District, but the Minister said that the PC did not say that nor mention anything about Ethiopia when, in fact, they disagreed in the meeting with the Ethiopian authorities and I have the minutes of that meeting here. He said that people were being abducted and that animals were taken from Bute which is in my constituency - that is 5,900 animals were stolen by Ethiopian authorities. The soldier who was in charge is a captain in the Ethiopian Government. I personally went to the border with the District Security Committee led by the District Commissioner, Wajir. We waited for these people there for five hours. A week earlier, the District Security Committee went and met them and they admitted that they stole the animals. I will quote the leader of the Ethiopian delegation where he says:- "While noting that while the Ethiopian Government was examining the cattle rustling incidents of Wajir and making every effort to recover the stolen cattle---" Now, that means that he has admitted that those cattle were stolen and that they have collected them and the Minister here says that there is nothing of that sort. Is it not a pity when a person from another country admits and yet, the Kenyan Minister who is supposed to be defending us and getting our animals back for us is denying that? I think we have the right to be defended, the right to life and property, and we are not waiting for that from anybody else. We demand it from our Government.

Mr. Temporary Deputy Speaker, Sir, what shocks me is that whenever there is a problem in the pastoral areas, it is always attributed to cattle rustling. Could the Government tell us today that it has no power or enough personnel to stop cattle rustling activities in Kenya? Why should people kill one another for no apparent reason? Why should we continue seeing people killing one another when the security personnel are watching? For example, three months ago in Gurrar, 200 bandits from Ethiopia attacked our people and the military personnel were there, watching helplessly. They watched people killing one another to the extent that my people were so annoyed that some of them started stoning military vehicles. Is that the way to care for Kenyans?

I have been standing in this House for the last three years, asking the Government to provide my people with guns because on the other side of the border, people have ammunitions and uniforms. But we are told that will not assist us. Fine. If it will not assist us, then we do not want those guns. But who will take care of our lives? Many will be killed, our animals will be stolen and our young girls will be abducted everyday and yet, the Government does not want to arm us. Who will take care of us? Are we in no-man's land and that we do not need Government security in that area? If that is the case, we should be told. But if it is not, then the Government should provide maximum security to those people.

Mr. Temporary Deputy Speaker, Sir, the other issue which surprises me is that this is happening in a KANU zone. Do you need to be a Minister for your people to be defended or taken care of? I wonder what happens to the Opposition zones if this is happening in a KANU zone. One thing I want to say on record is that the Provincial Administration in North Eastern Province, particularly the PC and the DC, Wajir, have done all that is within their power. The PC was at Gurrar and he said that they are frustrated and they do not know what to do. If the PC is frustrated, then I am sure the Minister will say he is also frustrated. If not, then he should give an appropriate answer to this problem. What I want is for the Government to come out clearly on this issue. I do not want to attack any individual, but I want my people to live in peace. They should be assured of a peaceful life.

It is sad that I cannot travel freely in my constituency. To do so, I have to seek the assistance of the DC, who then has to give me a lorry full of askaris to escort me. How can I serve my people if that is the way I have to travel? It is impossible. When I complain in this House about the insecurity situation in my constituency, I am given Ministerial statements which do not address themselves to the situation on the ground. Most of those statements are concocted in the Office of the President here in Nairobi. The one which is sent by the PC is not read in this House. This is terrible and it will not solve this problem.

Mr. Temporary Deputy Speaker, Sir, if the Ministers want Kenyans to take them seriously and, especially the Minister in charge of internal security, then he has to be sincere, frank and tell us the truth. If you have a problem, let us know about it and we will support you to the best of our ability.

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

I request hon. Kirwa to second this Motion.

The Temporary Deputy Speaker (Mr. Imanyara): This type of Motion does not need to be seconded.

(Question proposed)

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this important Motion for Adjournment.

The first thing we must make the Government understand is that it is the prime responsibility of any government worth its salt to protect the lives of its citizens and their property. This is a responsibility that the Government of the Republic of Kenya does not share with anybody else. It does not share this responsibility with the Opposition or hon. Members of Parliament. In this regard, it is important for this Government to understand a number of issues. One of these issues is that the money we vote for the Government to provide security is money from the taxpayers. These are the same taxpayers that are being harassed across the border. If the Government has failed to combat crimes along the borders then there are a number of issues the Government ought to admit. First, it should admit that it is totally incapable of governing this particular nation and, therefore, it has no responsibility to stay on in power. The best option for this Government is to go home and do better things that they know.

Secondly, I do not understand why we have to spend Kshs2.6 billion on the National Security Intelligence Service (NSIS), if they cannot get information about across border invasions. How can over 2,000 people invade a country from across the border; travel almost 400 kilometres into the interior, take animals and go back to their country without the knowledge of the NSIS? We are spending every year over Kshs2.6 billion on the NSIS. On average, it is almost Kshs10 million per constituency. This is a very threatening figure. What is the Government doing with this money, if it cannot understand what is happening along the border?

The other issue which I feel is very important as far as this insecurity is concerned is the mushrooming of Kenya Police Reservists (KPR), especially in border districts. How much is the Government spending in facilitating the KPR? How much could the Government spend in trying to combat crime along the border so that there is no need for KPR in some of those districts? These are some of the questions that the Minister ought to answer. This is because as long as we continue to gloss over the issue of insecurity and to pretend that there is nothing going on, we are actually courting a disaster. The inference from this is that the Government must be creating this particular insecurity for a number of districts so that they can keep them away from any of the political activities of the opposing parties. This is a deliberate move by this Government; where there is no insecurity, they create one. For example, between the Marakwet and Pokots. This was Government created insecurity just because they believe Marakwet ought to be a closed district from any of the opposition parties. As we are talking now, there are more than 14 districts which fall under this particular category. If this Government is interested in people in those districts, why does it not provide security to them? Otherwise, all these people may be killed by the time you want to vote. These people will not be there because some of these areas are sparsely populated. If you kill 600 people, you have killed almost half the population of the constituency. This is a warning to this Government that if it is still interested in going for votes in this particular area, it should protect the people first instead of blocking them from going there by creating insecurity in those particular areas.

Mr. Temporary Deputy Speaker, Sir, insecurity has filtered into various towns particularly, in the City, because some of the mushrooming arms among the communities and across the border have found their way to Nairobi. I would like to state that insecurity in Nairobi can be closely related to insecurity in various parts of this country, because some of these arms end up in Nairobi, where they are used by the same criminals.

The other thing which is important for this Government is to consider the salary of policemen, so that when it is dealing with security, it does not give the policeman with a gun the temptation to want to use that gun for other purposes other than what it was designed for; that is to protect the citizens of this country. I think that is important because security for this country ought to be paramount.

The second point that I would like to touch on is the actual role of the Kenya Police Reserve (KPR). What is the selection mode of the KPR? What kind of training do they undergo before they become the KPR personnel? What is their remuneration because they are not paid anything and, yet, these are people who are very poor and are in the village? The KPR officers are gradually getting turned into some groups of goons that are used to disrupt political rallies and Harambees in various constituencies, including mine. The Minister is a witness of this

embarrassing situation where he gave an assurance that a political rally would not be disrupted only to be disrupted by 150 *askaris*. The same Minister has the audacity to come here and pretend to be replying to a Motion of Adjournment. Really, if he is a man of principle, he should have resigned the day he realised that my rally was disrupted.

(Applause)

Dr. Kituyi: They have no integrity!

Mr. Kirwa: Mr. Temporary Deputy Speaker, Sir, I do sympathise with my colleague here. He knows that he has no power, but he pretends to have power to combat crime along the borders. If he cannot restrain an OCPD of a district from unleashing 150 *askaris* to a Harambee in a small constituency in this country--- I think it is high time that Ministers redefined their roles and duties to this country, because we pay them to serve the nation and, yet, they do not provide that service. Instead, they are proud of flying flags which have no meaning to Kenyans. A flag has no meaning to Kenyans! What is important is the service he provides in his capacity as the Minister in the Government, if it is still there.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Keynan: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to contribute on this very important Motion. First of all, I must register my disappointment with the Government. Time and again, we have brought a number of issues concerning the security of our people to this House, and what we have been getting is just a raw deal. It is time that we said nothing but the truth. It is not just enough for us to come here, talk for a whole hour and nothing happens. I would like to concur with hon. Dr. Ali and hon. Kirwa, who have said that this Government has the capacity to bring insecurity in North Eastern Province to an end, if it has the intentions.

Mr. Temporary Deputy Speaker, sir, the Chair will remember that in 1998, we had the Bagalla massacre, where over 187 people were killed and 17,500 livestock stolen. Has the Government even recovered one animal? This shows that the Government has stopped even thinking about the welfare of the people of northern Kenya. We have wasted a lot of our time when we would have been asking for our share of the national resources. Every time we are kept busy talking about insecurity; we have nothing else to discuss, we go home, see our children, mothers and everybody else being maimed and killed and cry with them. For how long shall we continue in this state?

I would like to point out that we have the military in this country and these people have engaged themselves in business, running after women and drinking wine. There is nothing else that these people do. Why can these people not be deployed at the border where they are required and not in the military camps? I would like to say that Wajir District has the third- largest military base in this country. Do they even go out of the camp when they hear that people have been massacred there? In fact, it is the Administration Policemen (APs) who are sent there. It is high time that we gave the salaries we give to this worthless animal called "military personnel" to the APs and the regular police because those are the people who act. It is not enough for us just to complain about Ethiopia, which has a right to protect its people. Where is our Government?

Everyday we get contradictory statements. The PC says something while the Ministers say something different. Who is in charge? We have not heard anything from the Minister for Foreign Affairs and International Co-operation. Whom should we resort to? I would like to inform this House that people are massacred, the Minister does not visit the area, the Police Commissioner does not even leave his office and they are waiting for President Moi to visit the area. It is high time that we knew the right person who is in charge of internal security. We are getting fed up because where we are--- First of all, all the neighbouring districts in Wajir District have been given homeguards and I am beginning to realise why we have been left out and why our people are being killed everyday. It is not even good to say that these are tribal clashes. The Government has the means and capacity to control these killings because we vote a lot of money for the security agents and I believe that this Government has one of the best security machinery in the world. This is because they can track anybody wherever he commits minor crime. Why do they not track down those bandits who cause havoc in that area?

A number of things would have happened by now because so many people have died. The Minister, the Police Commissioner or even His Excellency the President would have visited the area, if it was part of Kenya. We have not heard anything from the Minister and even the Police Commissioner. I would like to say that we have a Police Commissioner, who goes to his office at 6.00 a.m. and leaves at 6.00 p.m. I would like to point out that the work of the police is to go round and protect Kenyans. It is not just to do a white collar job! Have they visited the area? When the PC flew there in a helicopter, it was the right time for the Minister and the Commissioner of Police to visit the area. It is not just enough to send a PC or a DC.

I would like to congratulate the DC, Wajir District. If he would have received the necessary support from

the Central Government, he would have done a marvellous job, but I know that he is frustrated and, maybe, that is the reason why he decided to take leave.

Mr. Temporary Deputy Speaker, Sir, we need action to be taken. For how long will we cry? Today, I am sure that most of the hon. Members are not even aware that there is the Indemnity Act, which says that if a soldier has raped a woman in Northern Frontier District with good intention, that is allowed. We are seeing a repeat of the same thing and we need action to be taken. This is an Act of Parliament. If you look at the Order Paper, I have a Motion which I intend to bring to this House to repeal that Act. Thirty years, we are under the emergency law. Right now we have a vicious circle of insecurity in the area. When will we develop our area? When will we have free education and enjoy free medicine? When will we have peace of mind?

Dr. Kituyi: After Nyayo!

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, it is high time we were told where we have gone wrong. It is not important for one clan to blame another. We have always co-existed. Of course, there are petty quarrels because of pasture. But what we are seeing right now, goes beyond the banditry cases we used to see. I want to challenge hon. Maj. Madoka on this issue. I am glad that he is a person who has grown within the security system. First of all, he should visit the area because, that in itself, will mean a lot instead of relying on information from other people. If he were to visit the area, that would be a clear indication to the people of the North Eastern Province (NEP) that the Government cares about their welfare.

Mr. Temporary Deputy Speaker, Sir, we are fed up with this issue of referring to a particular clan in one day and the other day a particular clan. We are fed up because we believe that, that is part of the tactics of divide and rule. They want to keep us apart so that we continue killing one another. I want to appeal to the pastoralists of Northern Kenya, especially the warring clans to sit down and sort out their differences. For sure, if they are going to wait for the Government to come and solve their disputes on pasture and water, this Government is not prepared to assist them at all! If anything, I am sure those in the Government will be happy to hear that people have killed one another so that we do not have any development.

Mr. Temporary Deputy Speaker, Sir, I want to go on record saying that our people have quarrelled for quite sometime on petty things, hoping that the Government will come and rescue them. I want to plead with my colleagues in this House that, it is time we took it upon ourselves to make sure that we sit down and solve our problems regardless of what the Government thinks about the people of NEP. That is the only way we can assist our people. For quite sometime we have pleaded for assistance and it is not forthcoming. I want to appeal again to those who appreciate and understand the system of our region so that we can get time and sit down, especially in this Holy Month of Ramadhan. We want, at least, to have some semblance of peace so that, when other Kenyans are now yearning for democratisation and a Constitutional Review, we can work out modalities of helping ourselves because it is as if we are in a different world.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by saying that time has come for those of us who share the same problems to come together and discuss them with other Kenyans who appreciate our problems, not those who have been laughing at us. History is going to harshly judge Kenyans and in particular, the Government, for leaving the people of the NEP to languish in problems. It is not enough just to blame the Ethiopian Government. The Kenyan Government has all the machinery to find out whether or not the Ethiopian Government is involved. If it is involved, why has the Kenyan Government not protested?

Mr. Temporary Deputy Speaker, Sir, indeed, there have been a lot of cross-border attacks; what has the Government done? The Bagalla Massacre incident has set a precedent. They went away with thousands and thousands of livestock; that is free money. If you translate that into Kenya shillings, it will be almost over Kshs300 million to Kshs400 million. Which Government is going to release that amount of money? It is free money! It is the same thing that is happening now. If the Government would have acted decisively that time, even this other incident would not have happened.

Mr. Temporary Deputy Speaker, Sir, again it is high time the Government arrested some of the perpetrators of these heinous acts so that they are arraigned in court. We have not seen anybody being arrested. In other parts, we hear that somebody has been asked to record a statement, but not in our place. We want to see people being arrested in connection with the incidents in the NEP because there must be individuals behind these particular incidents.

Finally, Wajir has the third-largest military airbase in the country. I will not be wrong if I say that, when we go to Wajir, we will ask those people to leave that place because they are not doing anything to assist our people. We want them to be deployed along the border. If that is not going to be done, let them move out and go back to their barracks. For quite some time, it is not even enough to blame the Minister. These things require policy decisions. It is just like when you talk to the PC, he tells you that he does not know what to do because he has communicated to Nairobi and he is waiting for response. If you ask the Minister, he might tell you he is still

waiting for a feedback. Who do we go to? Do we just wait for President Moi? President Moi is one person! Why do they not use the structures in the Government because even in other things, the Government structures are used. I have seen the Minister or even other departments within the security apparatus effectively dealing with the Opposition. Why do we not apply the same to protect innocent Kenyans? Those are the people who need the helping hand of the security apparatus, not the disruption of Harambee meetings.

Thank you.

The Assistant Minister, Office of the President (Mr. Haji) Mr. Temporary Deputy Speaker, Sir, I stand before this House as an hon. Member from the NEP, as well as a representative of the people of NEP in the Government. This problem has been persistent in the NEP and this particular area. I recall that on 4th and 5th of August last year, we Members of Parliament from North Eastern Province, as well as Government officials, religious and elders, went to the area to reconcile the people there and we reached a consensus. We agreed that there were certain actions that were to be taken by the Government. I know the Minutes of that meeting were signed by the Provincial Commissioner, all Members of Parliament from North Eastern Province, the community leaders and religious leaders from that area. Unfortunately, the matter was left unattended for a long time. I believe if action was taken according to what was agreed in that meeting, we would not have been here today to discuss the same issue.

Mr. Temporary Deputy Speaker, Sir, it will be recalled that about three months ago, I was personally ambushed in an area which is known to be the most peaceful area of the NEP, even during the shifta era. The people who attacked me were bandits from outside the area. Up to today, nobody has bothered to investigate the matter or go to round up those bandits. Everyday, the Press quotes the Provincial Commissioner, NEP, saying that there are militia men who are sustained and maintained by the local people. It has now taken an international dimension. We know that since Independence we have had a very cordial and brotherly relationship with the Ethiopian Government.

Personally, I have been the Chairman of the Border Committee between the Kenyan and Ethiopian Government for six years. I have crisscrossed Ethiopia and brought the Ethiopian leaders to Kenya and, we have held very fruitful discussions and we have always solved matters amicably.

Mr. Temporary Deputy Speaker, Sir, there must be something fundamentally wrong! I would like to see a situation whereby the Minister in charge of internal security and the PC speak on the same wavelength. This is because if the PC says one thing and the Minister says another, the best judges of this problem are none other than the people on the ground because they know their problem. All they need is for somebody to go there and find out what their problem is. Once you identify the problem, it always very easy to find a solution.

I would like to appeal to my brothers in NEP---

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister who is on the Floor not in charge of Provincial Administration?

The Temporary Deputy Speaker (Mr. Imanyara): No!

Mr. Angwenyi: He is not? Okay. I thought he was in charge.

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, the hon. Member has been answered by people of goodwill.

What I was trying to say is that, this the Holy month of Ramadhan---

Mr. Kimeto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Assistant Minister, Office of the President, who is a former PC, tell this House whether, since he left the Provincial Administration, the administration has failed or died?

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, please, protect me. Let the Member ask a question! He should not make a statement here to waste my time.

I am trying to send an appeal that this is the Holy month of Ramadhan when the Koran was revealed to prophet Mohammed, and that is what we are following. People should reflect very deeply on this matter; 300 people dying and so many livestock being lost, at this time when poverty is looming all over, is a very sad affair.

I want to say that it will be wrong for us to expect His Excellency President Moi to trot around the country to solve problems that could be solved by Government officers on the ground, as well as other leaders! I speak from my own experience. I remember that in 1989, many Turkans were killed in Lokichoggio. I personally went there and camped for two weeks. First of all, I wanted to console the people. Secondly, I went there to show the flag of the country and, thirdly, to negotiate for the return of the stolen livestock. We do not expect to go to war with Ethiopia, but I think that with the right approach and diplomacy, they are a friendly country. They have always co-operated with us.

Mr. Muithia: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the

Floor campaigning for the seat of the Minister, so that he could go there and sort out the problems?

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, I will not answer that one! I am one person who believes that my destiny is in the hands of God. If He knows that I will be a Minister one day, I will be! One day, I can even be the President!

An hon. Member: I agree with you entirely!

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, my destiny is in the hands of God. I believe the matter should be divided into two categories. First, the Provincial Administration should play its role with the security forces there, to show some semblance of the presence of the Government. If they need to be assisted from the centre, they should make a very quick request to the Government. Secondly, the Ministry of Foreign Affairs and International Co-operation should be asked to intervene in a diplomatic manner. You cannot solve an intricate problem like that through the Press, neither can you solve it by giving ultimatums. Ethiopia is a sovereign State. For that matter, it is one of the oldest Governments in Africa. You cannot tell them to do a, b, c and d! But if you talk to them, I believe they will respond positively. As I said, I have dealt with them for six good years. I personally know the Ambassador here.

All we need to do is for our Minister to establish a contact with the Ethiopian Foreign Minister. He should give directions to the officers in the field.

Mr. Temporary Deputy Speaker, Sir, when that incident occurred, if there was a little bit of patience, and we invited the Ethiopian counterparts and sat together, we would have found a way forward. But if you just leave the matter for days and weeks, they are also human beings and they will most likely find an escape by denying that no such thing happened. So, I would like to see that issue handled very seriously. I want to appeal to the Minister and the Government not to take that matter lightly. Today, that is a cross-border issue between Kenya and Ethiopia. Tomorrow, it might be between Kenya and Sudan. The next day, it might be Kenya and Uganda. If we just sit over problems like that, it will be very difficult to handle them in future.

With those few remarks, I beg to support.

Mr. Kibaki: Mr. Temporary Deputy Speaker, Sir, I very much support this Motion, and the sentiments expressed by the Mover. We know that in North Eastern Province and the whole of that region, there is infiltration from neighbouring countries of a large number of people with armaments. If the Government wants to be effective, it should increase the number of people patrolling those border places. Equally important, it is known that we have bandits. The Government has admitted that, because if you move from Garissa to other places, you have to be accompanied by the police. If the Government has agreed that there are armed people on the loose who attack other people, the question that I would like to ask is: That is a matter of internal security, we should deal with it first even before we deal with external security matters. Since the internal security situation is so bad that when you want to move from Garissa to Wajir and Mandera you have to be accompanied and protected by the police, is the Government accepting that, that is the way we should live as a nation? The Government seems to be doing nothing! Does it accept that it is incapable of tackling that problem and that we will continue living like that forever? That problem has been there for five years and nothing has happened! That is the question which hon. Haji also asked, when he talked about particular regions which are very safe. When the Minister comes to reply, let him tell us whether the Government has failed to do anything about the internal security, leave alone external security, and whether we will live with the problem forever? Let them own up like that.

Mr. Temporary Deputy Speaker, Sir, equally important in that particular matter, not only in North Eastern Province and other insecure areas, we see the existence of a parallel force to the official regular police in Kenya. There are other people in civilian clothes who have their own vehicles who tour every part of this nation. We have seen them in the rural areas. The Minister should tell us: Whose people are those? To whom do they report? They are not under the regular police. Whose people are they? They are well equipped and tour various places in the country. They are part of the organisation of intimidation which is aimed at politicians. We want the Minister to tell us whose people are they. There are people with vehicles who follow us everywhere. When they kill some people, you may never know who to pursue. If they are not members of the police, and since they are not subject to the command of police in any particular area, and they are mobile, who are they? Whose gang is it?

Thirdly, we know that the police are very badly equipped. They are not properly housed. The programme which was there to build them houses was stopped. Everywhere you go, you will see police houses which went up to a certain stage, but were abandoned. We voted money and we still continue to do so! When will the police houses be completed, starting with those in the Industrial Area and everywhere else? If we do not house and pay our police well, nothing will improve. Right now, we pay them very little. We must pay, house, equip and give them vehicles to be effective. We must treat them well. The Government should show that it

cares.

Mr. Temporary Deputy Speaker, Sir, could you imagine police stations in Nairobi without vehicles and others with rationed petrol? They will tell you: "We have finished our ration of petrol! So, we are not able to move!" What happens to the billions that we vote each year? The Minister should say something about that. How can we have a Police Force without petrol? It means that probably, they do not even have food! I do not know enough about that particular detail. But the police must be properly equipped, well housed and paid. They will then do their jobs.

Mr. Temporary Deputy Speaker, Sir, the misuse of police which should be doing security is everywhere! As of now, the Government has decided that any Member of Parliament who speaks frankly and freely must be harassed. You hear of Members for Bomet and Cherangani being pursued. Can you imagine that the Member for Cherangani would like to have a Harambee and 200 policemen are collected from different police stations to attack him? In a week, it is done three times! Does that not mean that the Government has lost direction? It does not know what it is doing! Why does it not call the Member and tell him what crime he has committed, and let him to go ahead? We have been told by the Minister himself in this Parliament that he will take action and, on the same day, no action is taken and yet the Member is harassed! I am sure he will be harassed even in the next meeting. Does the Minister dare to repeat his words in this House that he will discipline the police? If he does not, then he should resign.

The Minister promised Parliament that he was going to take action, but he was not allowed to do so. Then this clearly shows that he is not in the system. He is out of it and just being used for certain occasional jobs. It is a very serious matter. We are elected Members of Parliament. What harm does it do to anybody doing Harambee in your own constituency or any other constituency? If somebody utters seditious words, he will be dealt with in due course. But we want that freedom. Instead of concentrating that number of policemen there, we should deploy them to where they are needed, so that the resources may be efficiently utilised and not in harassing hon. Members. Another hon. Member was summoned to the Police Headquarters to record a statement. If you speak the truth, what further statement are you required to make? You have already spoken the truth and the police know that is the truth. They have the Akiwumi Report and all the records. They know that the truth was spoken. Even if it is painful, we do not have to harass the Member who has spoken on it. We should accept the truth and it will make you free. To resolve that crisis or conflict that occurred between communities, we should accept that there was a crisis, know whoever masterminded and learn from it. We should forgive one another and look to the future. After all, we have had such circumstances before. There was a big fight here between the Mau Mau and other gangs which had been organised by the British Government. But when Kenyatta came, he asked the people to forgive each other and look to the future. The nation is ours and we want to go forward. That is a more meaningful approach than thinking that you are going to silence hon. Members by intimidating them. I am sure that the Minister will assure us today that he will stop that kind of harassment.

Finally, let me say that with regard to North Eastern Province, as the point has already been made, we used to talk to our neighbours. I know there is not an effective government in Somalia, but there is one in Ethiopia. Is it that we do not talk to them or is it that we are supporting some factions which is putting us into trouble? The Minister should come out clean on this matter because there are suspicions that we are getting into problems because we are supporting some factions in Ethiopia. This question should be answered: Why is Ethiopia lukewarm towards us? Why does Ethiopia allow certain forces to infiltrate for many kilometres into our territory? During that infiltration, where are our Armed Forces? Since it is across international borders, the Army should have a hand in helping the police because they have all the equipment to keep proper surveillance. They would have helped the police. Why is the Army not involved in keeping proper surveillance at the border? Is it that there is no proper co-ordination between the military and the police? What is the problem? These are issues which Kenyans are asking themselves. They believe mistakenly, as it comes out, that we have a genuine Government, but we do not. Instead, our Government is very busy looting, grabbing ADC farms and clearing all the forests in the whole nation. When you destroy all the forests, what security will you have? None.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support the Motion.

I thank hon. Members who have contributed, including the Assistant Minister, Office of the President, hon. Haji. This country is increasingly moving towards chaos and anarchy. We vote so much money to the Provincial Administration and Internal Security, the Ministry of Foreign Affairs and International Co-operation and for our Defence and yet, outsiders invade our country with impunity. They maim and kill our people, abduct our kids and take our animals. We have no recourse. The people of Northern Kenya are subjected to more than enough suffering due to natural causes. Therefore, they should not be subjected to this harassment from cross-border incursions and from bandits within the country. As hon. Kibaki said, our Government should own up to these problems and devise ways of dealing with them. Instead, the Government is concentrating all its resources

on following Members of the Opposition and KANU rebels, so that you cannot even talk to your wife without some government official eavesdropping on you. They will know what you have talked to your wife at night and yet, they cannot know when we are being invaded. I do not know whether it is a home or an internal Government? What Government is this?

Mr. Temporary Deputy Speaker, Sir, recently we established the National Security Intelligence Service (NSIS) and we are paying them hefty salaries. They earn more than Members of Parliament, the judges and the Permanent Secretaries. What work do they do except eavesdropping on hon. Members, political and church leaders? There is a proliferation of arms in this country which come from other countries and yet, we have got an established CID, Intelligence Department and Police. The Government does not want to manage the security of this country. Today, you cannot walk along River Road here in Nairobi after six o'clock without being molested. This is happening in Nairobi where the President and the Ministers live, flying their big flags. There is no recourse. You cannot get the police to pursue these people. Rural areas have become insecure to the extent that you cannot do your work. The Ministry in charge of internal security has completely failed. That is one other impotent Ministry. It cannot produce results for this country. What will we do about this insecurity?

Mr. Kamolleh: Who is impotent; is it the Minister or the Ministry?

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, as hon. Kibaki said, this Government sent 300 policemen to follow hon. Kirwa to his home. Hon. Kirwa cannot have a square meal in his house without being spied on by security forces. Instead of sending these officers to Wajir North and Wajir West to restore security in that area, the Government would rather use them to spy on Members of Parliament. We voted so much money Kshs13 billion for our defence. What is this money used for? We are sending our young men to Sierra Leone and other trouble spots in the world to restore peace there and yet, we cannot use them in our country. Why do we vote this much money? Do we vote so that it can be looted? What is it being used for? Why can it not be used to buy equipment for the security forces to use in those areas?

I am glad hon. Haji posed a question as to whether we should be sending the President of the Republic of Kenya to every spot where there is a problem. At his stage, we will expedite his demise. The Ministers should have visited this place where 300 people were massacred, kids abducted and thousands of cattle, goats and sheep taken away. I would like the Minister of State, Office of the President, in charge of Provincial Administration, to listen to us very carefully today. I am afraid that the Minister of State, Office of the President, in charge of Defence, is not here; he has gone out to look for young girls.

(Laughter)

If he were here, he would have listened to what we are saying and provided the best service he could. The Minister for Foreign Affairs and International Co-operation, instead of being involved in the conflict between the Raila Constitutional Review Committee and the Ufungamano constitutional review initiative, should have been busy telling us what he has done---

Mr. Muihia: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether you heard the hon. Member on the Floor saying that the Minister of State, Office of the President, in charge of Defence, has gone out to look for young girls. Is he in order? Could he substantiate?

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the Minister for Foreign Affairs and International Co-operation should not be busy with the conflict between the Ufungamano group, the women caucus and the Raila Committee; he should have been busy establishing relations---

The Minister of State, Office of the President (Maj. Madoka): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think a very important point was raised here, that the hon. Member on the Floor should substantiate his allegation that another hon. Member has gone to look for young girls. I think he needs to do that.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I would not like to substantiate the obvious. The other day we heard from a court what he had done.

What we are saying is that the Minister should be responsible for---

(Laughter)

Mr. Kamolleh: On a point of order, Mr. Temporary Deputy Speaker, Sir. What is obvious to hon. Angwenyi is not obvious to me. Could he, please, substantiate his allegation, so that we can know the hon. Member he was referring to and exactly what he did? The matter is not obvious to me.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I am saying that the way forward is that we should

equip our Police Force adequately and intensify surveillance patrols along our borders. We should also drill boreholes and construct dams in arid areas. I propose that the Government sets aside Kshs1 billion, so that, at least, 20 boreholes can be drilled and 50 dams constructed in every constituency in northern Kenya, so that people in that area can settle down and get to know when they are being invaded. I also propose that the Minister in charge of Provincial Administration appoints local people to administer the North Eastern Province. Local people would know in advance when some people plan invasions, or when bandits plan to attack certain places. Let the District Officers (DOs) and District Commissioners (DCs) be people from those areas. He should take hon. Haji back to the Provincial Administration and appoint him the PC for the North Eastern Province instead of putting him in an office in Nairobi, where he does nothing for a whole year. That way, we can have peace in this country.

Mr. Temporary Deputy Speaker, Sir, let us do away with the Kenya Police Reserve (KPR). The KPR serves as vigilante for some of the hooligans who carry out robberies in that area. I was recently surprised when the PC, Nyanza, advised the Kisii people to form vigilante groups and patrol the border between Kisii, the Kipsigis and the Maasai people. That is a manifestation of a Government which has failed; it cannot provide security for its people. Instead, it is asking us to form vigilante groups to patrol our borders and pursue cattle rustlers. Is that the Government that I voted for? Is it the Government for which this House has voted so much money?

I hope that when the Minister replies, he will tell us who has authorised the DC, Trans Nzoia, to declare hon. Kirwa a *persona non-grata* in that district, which hon. Kirwa represents in this House. That DC should have been sacked a very long time ago and even charged in a court of law, but the Minister is here, doing nothing. The Minister is a very kind man; I think he should be shuffled to the Ministry of Home Affairs, Heritage and Sports. He would fit in that Ministry. Maybe, a hooligan should be appointed to run the Provincial Administration docket, so that he can bring some change in some DCs. If we could have a hooligan in that docket to stop banditry, this country would move forward.

Mr. Temporary Deputy Speaker, Sir, the National Security Intelligence Service (NSIS) officers ought to be given targets or how many guns they should recover from criminals. We should also know how many reports that they make that are fruitful for the enhancement of security of this country. The Provincial Administration must be told very clearly that their job is to maintain security in this country and not to pass the blame to politicians.

With those few remarks, I support the Motion.

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion which is very important. I think there is no way we can discuss this Motion without focusing our attention on the security of this country. The security of this country is lacking, and, indeed, it is very important that the Office of the President is told as much. If we go by what the Mover of this Motion said, we have got forces invading this country, for example in Wajir district. They kill people, burn houses and even abduct young girls. The big question that one has to put forward is: What are our security forces doing? I think there is lack of attention on the part of the security forces, and there is no will on the part of the Government. If the Government has no will to protect its people, then, it has got no business being in Government.

We did discuss here a lot about the recent Budget, and if you look at the Vote of the NSIS, you will find that it is very huge. It may be that some of us may not know about that, but the fact of the matter is that the NSIS employees earn very handsomely. In fact, we have a few of them working for this House, and if you compare their salaries to that of the Clerk of the National Assembly, you will find that they are paid much higher than him. But what is their job? Why do we want all these monies to go to the NSIS and yet they cannot produce results?

The DOD is yet another department with a very huge budget. What do they do? If forces from a neighbouring country are coming to this country and we have the DOD which is in place and is unaware, why should we have it? Those forces kill, steal, maim and go away unnoticed and yet, the taxpayer is paying for all that big Vote to the DOD. Why should we have them? It is high time, as my colleagues have said, that we re-examined the performance of the Office of the President which provides security for this country. Indeed, I sympathise with the Minister in charge of internal security because what he says is completely contrary to what is on the ground. If we are having the DCs and PCs owning up that they are being frustrated; they cannot do anything, what is left for the people of Wajir district and the larger North Eastern Province? Do they need to arm themselves? We are told that other bordering districts have got homeguards provided to them and yet, one district alone is being denied that facility. Why is that happening? Could the Minister stand up and explain why it is so? Yet, it is very clear that they are not interested in providing security for that particular district.

Mr. Temporary Deputy Speaker, Sir, we have heard with a lot of passion what hon. Keynan had to say and indeed, a lot of it is true. There is testimony to that. What has happened in this particular part of the country is that you will find one clan fighting another and it seems as if it has been a vicious cycle. What is the reason for

this? Why should people who have been living together for all this time begin fighting amongst themselves? Why should Boranas fight Somalis? Why should it be the other way round? It is quite clear here that the Government is not interested in providing peace in this area. This is simply to divide them and make sure that they rule them indefinitely without bringing any semblance of peace to them. The DCs and PCs in this country have completely thrown the rule of law through the window. We know very well that we do not need licences to hold Harambees or public rallies. All we need is notification.

What has happened in the last three weeks is a very big shame. Why should Members of Parliament be followed day-in-day-out, being chased around like thieves when they are in their own constituencies? Why should that be the case? What wrong has hon. Dr. Ochuodho done in Homa Bay to be tracked every time he wants to hold a meeting with his own people who elected him? He cannot be allowed to do so. Why should hon. Kirwa be chased around like a thief and yet the law is very clear on this? It is important that the Minister in charge of security and the Minister in charge of Provincial Administration, comes because then this matter. We are failing very badly on the question of security in this country. One wonders what is happening when there is a very serious claim about a foreign country invading our country and we hear nothing from the Minister for Foreign Affairs and International Co-operation. Do we have any foreign policy regarding such incidents?

It is ironical that, in fact, the Minister for Foreign Affairs and International Co-operation comes from the same province and yet he is not saying anything. What would one conclude? A whole Minister coming from that region and yet 300 people are being killed, girls being raped, animals being stolen, houses being burnt and he is quiet. What would one want to imagine? That Minister must be feeling very shameful wherever he is. He is quiet for specific reasons that are evil and well known to him. I would have expected a Minister in that particular region to come out very strongly and oppose such activities. We know why he is quiet; he is eyeing something. But let us tell him that he may find it very difficult.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Khamasi, it is time for the Minister to respond.

The Minister of State, Office of the President (Maj. Madoka): Insecurity which leads to loss of life and property and damage to property is, indeed, very painful. I share the sentiments expressed by Members in this House.

Mr. Temporary Deputy Speaker, Sir, the Motion before us is insecurity in the northern part of Kenya and I want to address myself to that particular Motion. There are three possible ways in sorting out insecurity. First, there is a military solution, particularly if external aggression is involved. Two, there is administrative solution to the problem. That is where you may have your internal security process involved. The third one is the political solution. I would like to put this issue in the North Eastern Province in its right perspective, particularly where the issue has really sparked off the present escalation of insecurity.

Mr. Temporary Deputy Speaker, Sir, the whole issue started when Eristino Location in the Gura Division was moved administratively to Mandera, and this was a great mistake. We have been able to sort that out and Eristino Location is now rightly in Gura which is in Wajir District. This has left a lot of problems because the Garreh who are basically people of Mandera, have been moved back to Mandera and they are dissatisfied since they would like to go back to Eristino which they claim is their original home and the Ajurans who live in that area are not prepared to accept them.

Mr. Temporary Deputy Speaker, Sir, what happened in June this year when this particular incident took place is that about 500 animals and 900 camels were stolen and quite a number of people were killed. After that incident, the leaders met - hon. Haji refereed to it - and made certain resolutions. One of the resolutions was that the Ajurans should be compensated for the loss of their animals and the abduction of one girl and their camels. The Garreh raised Kshs400,000 and several camels which are now held in Mandera. The Ajurans were asked to organise a day when this particular compensation would be handed to them. Up to now, they have not done so. However, in the meantime, what has happened is that there are certain alliances which are developing.

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is misleading this House. Can he tell us the specifics of those meetings, who was to arrange for them and who was to attend? Can he tell us, unless you are still talking from your own---

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, the District Commissioner has held meetings with the Garreh elders. He has also called the Ajuran elders and they said that they would organise a suitable day but this has not been fixed.

Mr. Temporary Deputy Speaker, Sir, it is not true to say that foreign militia are coming to the country. The position is this: The Garrehs in Mandera District have their brothers, the Garrehs, in Ethiopia. The Garrehs in Ethiopia have got their own militia. The Garreh are still in conflict with the Ajuran clan. The Ajuran clan is trying to form an alliance with the Borans. They are also allowing Oromos in Ethiopia to join this alliance to fight the Garrehs. The way the situation is developing is, indeed, of great concern. The Garrehs have armed

themselves with the support of their brothers in Ethiopia. Equally, the Ajurans are joining forces, as I said, with the Borans and they are also arming themselves as a community to fight the Garrehs. So, this situation needs the elders and the political leaders to come together and find a solution. Mr. Temporary Deputy Speaker, Sir, it is very painful to see these very leaders taking sides instead of helping the Government to find the solutions. They are deliberately arming their people. In fact, some of the politicians are even financing some of these groups. We have told these individuals that they need to come and assist the Government to find a permanent solution to this problem because it is their people who are suffering. Mr. Temporary Deputy Speaker, Sir, there is an incident which happened on 5th October, 2000 when the Ajuran attacked an Administration Police Post. Amongst the bandits killed after they had attacked the Administration Police were as follows:- Mr. Hassan Ibrahim Ali, who happens to be a brother of the hon. Member of Wajir North Constituency, and Abdi Ibrahim---

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister is saying that my brother was killed. I am not even aware whether he was killed or not. But even if he was killed, is that an issue? Our people are being killed everyday. Is that an issue to discuss here? You are not even ashamed, Mr. Minister. Mothers of over 70 years are being killed.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Ali!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I am not ashamed because I am stating the facts, which will help to show how the leaders need to come out and help us in sorting out the problem. The other person who was killed was a brother to the senior chief of the area, Godoma.

What we are trying to say is that this problem needs a political solution. All the clan elders need to come together. I am glad hon. Keynan did say that warring clans need to come together and sort out their differences. Hon. Haji also said there is a need for these clan leaders to come together and find a solution to this problem. This is because it does not matter how many forces we put there.

Unless we persuade these people to forget their clan differences and live together as brothers, this problem will continue.

Mr. Temporary Deputy Speaker, Sir, the Government is committed to ensuring that there is security in the area. Honestly, it does not matter how many forces we put there. Unless we get the support of the local people, it will be very difficult for us to find a permanent solution to this problem. In fact, we have got an army company there which helps in patrolling those particular areas.

Mr. Temporary Deputy Speaker, Sir, hon. Members were talking of arming these people or each community being armed. In my view, arming these communities simply because the people on the other side are armed is a dangerous situation. Right now if we arm the Garrehs and the Ajurans, it will be very dangerous because these two clans are fighting amongst themselves. So, it is not so much that people are coming from the other side to fight in Kenya, but it is two clans fighting amongst themselves. So, we are pleading with the communities around there to come forward. We agree that there are times when we face certain constraints; maybe, the police might not have been able to move in time. We accept that might have been there. But in this particular incident, measures were taken and everything is in place. We want to plead with the hon. Members to work for peace.

Mr. Temporary Deputy Speaker, Sir, this morning I answered a Question here where hon. Ali wants the Ajurans in Gurrar and Buna Divisions to be moved to Moyale because they have a scheme to join the Boran in order to fight the Garrehs. This is the intelligence message we have and we have to try to contain this situation, so that we can have peace in that particular area.

Mr. Temporary Deputy Speaker, Sir, hon. Members, particularly hon. Kibaki, have complained of the people who move around the country in civilian cars. We do have them and they are members of the Police Force. They are members of the Anti-crime Unit and they do move throughout the country. I would like to say that it is not a parallel force, but it is part of the Police Force and I can provide the hon. Members with their force numbers and so on. So, they operate within the State security machinery of the Government.

Mr. Temporary Deputy Speaker, Sir, I would like to assure hon. Kibaki that those are not strangers, but they are people within the Police Force; we know them and equip them to move around to contain anti-crime activities.

Mr. Kihoro: On a point of order, Mr. Temporary Deputy Speaker, Sir. The point was that these people move around the country and they are armed. These officers move around and they are not subject to the command of the area where they move into, but they are subject to a command at the Office of the President. Can he confirm that, indeed, that is the position; that they do not report to anybody else?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir,

that is not correct. They do serve under the command of the police officers. When they even go to those specific areas, they do report to the officer in charge of that particular area. So, they are also subjected to specific command from the Force Headquarters. I appreciate and say that any loss of life is of great concern.

We take note that the police are not properly paid--

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Minister to say that these officers who roam around are fighting crime when they are mostly following hon. Members of Parliament. Are hon. Members of Parliament committing crime?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, these people who go round control crime and they do not follow hon. Members. If I told you the number of people who are going round, you would all be covered in no time. So, all the security agents are aimed at--

Mr. Kones: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to mislead this House that these homeguards are actually following criminals, when I remember at Kuriot Primary School in Cherangany Constituency, there were about 100 of those people who were sent to disperse the crowd by throwing teargas canisters and using live bullets on us? Were we actually committing any crime by holding a Harambee there?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, first of all, as I have said in this House, we do not have any homeguards. If any Harambee meeting was dispersed, it depended on the situation on the ground. I have given assurance to this House that we will ensure that meetings take place, but I did also say that we depend on the people on the ground. They give us the information; they are the best people to tell us whether there is any imminent threat to law and order.

It is the people on the ground who can tell us that because we cannot make that decision from here.

Mr. Ndicho: On a point of information, Mr. Temporary Deputy Speaker, Sir. Let me inform you, Mr. Minister.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I do not mind the information.

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

Mr. Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Angwenyi! The Minister has got only two minutes to wind up his contribution. Continue, Mr. Madoka!

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Temporary Deputy Speaker, Sir.

As I conclude, I really want to tell hon. Members that we are concerned where there is insecurity; indeed, we are concerned when we lose any life of any Kenyan. It is of our great concern and we will do our best to ensure that we contain the security situation.

Mr. Temporary Deputy Speaker, Sir, there are times when there may be laxity because certain individuals might not have worked; we have had certain constraints, but we will do our best to ensure that we contain the security situation.

Thank you, Mr. Temporary Deputy Speaker, Sir.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 7th December, at 2.30 p.m.

The House rose at 6.30 p.m.