

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday 14th July, 1999

The House met at 9.00 a.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.298

REINSTATEMENT OF RETIRED CHIEF

Mr. Speaker: Is Mr. Raila not here? We will leave his Question until the end. Next Question!

Question No.304

IRREGULAR APPOINTMENT OF
ASSISTANT CHIEF

Mr. Speaker: Mr. Kimetto also not here? We will leave his Question until the end. Next Question!

Question No.310

MURDER OF MR. WASIKE WACHIBAYA

Mr. Speaker: Mr. Kapten also not here? We will leave his Question until the end. Next Question!

Question No.293

SOURCE OF FUNDS ADVANCED TO
NATIONAL BANK OF KENYA

Mr. Speaker: Mr. Achola also not here? We will leave his Question until the end. Next Question!

Question No.387

REMOVAL OF EQUIPMENT FROM
NDURU HEALTH CENTRE

Mr. Speaker: Mr. Magara not here? Let us move on to the next Question.

Question No.297

LIQUIDATION OF MEDIVAC LIMITED

Mrs. Mugo asked the Minister for Labour:-

(a) whether he is aware that Medivac Limited was liquidated in July, 1998 and that 49 employees were declared redundant;

(b) whether he is also aware that Medivac Limited applied Section 16 of Cap.226 in declaring the employees redundant instead of the relevant clause on the regulation of wages and conditions under the Employment Act Cap.229, in the general wages order;

(c) whether he is further aware that Medivac Limited erred in limiting the employees to a maximum of Kshs4,000 only as their terminal benefits; and,

(d) what action he is taking to ensure that the affected employees do not lose their terminal benefits following the voluntary creditors liquidation of Medivac Limited.

Mr. Speaker: Anyone here from the Ministry of Labour? We will leave that Question until the end then. Next Question!

Question No.307

PAYMENT OF TERMINAL BENEFITS TO
SACKED BANK EMPLOYEES

Mr. Speaker: Mr. Ndwiga not here? We

will come back to that Question later.

Mr. Raila's Question for the second time.

Question No.298

REINSTATEMENT OF RETIRED CHIEF

Mr. Speaker: Mr. Raila still not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Mr. Kimetto's Question!

Question No.310

MURDER OF MR. WASIKE WACHIBAYA

Mr. Speaker: Mr. Kimetto still not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Mr. Kapten's Question!

Question No.310

MURDER OF MR. WASIKE WACHIBAYA

Mr. Speaker: Mr. Kapten still not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Mr. Achola's Question!

Question No.293

SOURCE OF FUNDS ADVANCED TO
NATIONAL BANK OF KENYA

Mr. Speaker: Mr. Achola still not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Mr. Magara's Question!

Question No.387

REMOVAL OF EQUIPMENT FROM
NDURU HEALTH CENTRE

Mr. Speaker: Mr. Magara still not here? The Question is dropped.

(Question dropped)

Mr. Speaker: Mrs. Mugo's Question!

Question No.297

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(d) what action he is taking to ensure that the affected employees do not lose their terminal benefits following the voluntary creditors liquidation of Medivac Limited.

Mr. Speaker: Anyone here from the Ministry of Labour? I am afraid, I will defer the Question.

(Question deferred)

Question No.387

PAYMENT OF TERMINAL BENEFITS
TO SACKED BANK EMPLOYEES

Mr. Speaker: Mr. Ndwiga still not here? The Question is dropped.

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

SCREENING OF KENYANS OF SOMALI ORIGIN

Mr. Shidiye: 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 Kenyans of Somali origin cannot be issued with identification cards unless they produce verification and screening cards given to them?

(b) Under what law were the screening cards for Kenyans of Somali origin introduced?

(c) What urgent measures is the Minister taking to rectify this anomaly and ensure that Kenyans of Somali origin are treated like other Kenyans in accordance with the Constitution?

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

(a) I am aware that we have had some slight problems in getting the genuine Somalis registered, but we are working on that.

(b) The verification certificate for Kenyans of Somali origin were introduced under Section 8 of the Registration of Persons Act, Cap.107, Laws of Kenya.

(c) In view of my reply to part "b" of the Question, part "c" does not arise.

Mr. Shidiye: Mr. Speaker, Sir, the so-called screening or verification cards have reduced Kenyan Somalis to the status of third class citizens. This document is reminiscent of apartheid in this country. Many Somalis who have completed their education and have attained the age of 18 years are unable to get identity cards in this country. In my constituency, there are more than 6,000 people who are unable to register. My sister cannot get an identity card in my constituency. Could the Minister declare in this House, here and now, that this card is illegal and it should be banned and should not be a condition for acquiring an identity card?

Maj. Madoka: Mr. Speaker, Sir, I think the hon. Member is not being very honest with himself because it is them---

Mr. Shidiye: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Shidiye! How can you rise on a point of order before you have heard why you are not honest with yourself? Proceed, Maj. Madoka!

Maj. Madoka: Mr. Speaker, Sir, in 1996 the Somalis in North-Eastern Province complained that there were too many Somalis from a neighbouring country coming to Kenya and they wanted us to stop that influx. It was agreed amongst the elders that we would form a committee to register the genuine Kenyans.

Mr. Keynan: On a point of order, Mr. Speaker, Sir. It is an unfortunate and a sad day in the history of this nation for hon. Madoka to mislead the nation, while he knows that no Somalis complained and the issue of screening cards did not arise in 1996. That is a deliberate misinformation to the House and to Kenyans in general. Could the Minister declare the status of these cards? Are we going to continue with them or you will ban them? Otherwise, as a community, we have decided that we are not the only ones who live along the border. We have more Luos in Tanzania than those who live here. We have more Luhyas in Uganda than those in Kenya. We also have more Maasais in Tanzania than those who live here. Even Taitas who live across the border are more than our Taitas. The Kalenjins of Sudan are more than ours. What are you trying to tell us now? You must declare your position as to whether this document will continue to be used or you will ban it.

Maj. Madoka: Mr. Speaker, Sir, I will not retract what I have said. It was the Somalis themselves in North-Eastern Province who wanted this exercise to be carried out.

Mr. Shidiye: On a point of order, Mr. Speaker, Sir. We are the leaders of Somalis and at no given time did we say that these cards will be a prerequisite for acquiring an identity card. The Minister is misleading the House. Could he declare here and now, what the basis of this document is, and under which law it was introduced because the Somali leaders do not want it? My own sister cannot get an identity card. This is a serious matter, it touches on our lives. Let him make a declaration here.

Maj. Madoka: Mr. Speaker, Sir, I will continue with what I said earlier on. I would like to inform this House that a committee, which was headed by Mr. Haji, was set up and the elders fully participated in registering the genuine Kenyan Somalis. At that time, it was agreed that, the Committee would identify the genuine Kenyan Somalis. I would like to inform this House that the Government has not acted against any genuine Kenyan Somali.

Mr. Leshore: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order, Mr. Leshore! Mr. Leshore, it will not help you, if all the time you want to stop the Minister from answering the Question. If you are not interested in his answer, I am inclined to go to the next Question.

(Mr. Leshore murmured something)

Mr. Speaker: Order! Order, Mr. Leshore! Mr. Leshore, I am inclined to throw you out of this House. I do now throw you out of the House because you are disorderly. Will you now leave the House?

(Mr. Leshore withdrew from the Chamber)

Mrs. Mugo: Mr. Speaker, Sir, in consideration of the security situation in North Eastern Province, where we have not only women being raped, but also the whole situation is very dangerous--- In fact, recently people from Somalia crossed the border into Kenya and stole our armaments, but I thank the President that we got them back. Considering all that, is it not the Government's responsibility to have known by now who are Kenyan Somalis and those who are not, and then protected the Kenyan Somalis? The Government cannot abdicate its responsibility to its people and leave this duty to a local committee that comprises of elders. Could the Minister tell us the specific measures the Government has taken so far to safeguard the lives of innocent Somalis, including women and children, who are Kenyan citizens?

Maj. Madoka: Mr. Speaker, Sir, all that we have been doing is aimed at safeguarding the genuine Kenyan Somalis. That exercise was done because we wanted to know who are the genuine Kenyan Somalis whom we respect. However, the leaders from that area complained about the exercise, and yet, we know that one of the reasons for insecurity in our country is the people who cross our border and interfere with our security system. So, the Government is doing its best to ensure that it registers the genuine Kenyan Somalis. Once this is done, then we will have no problem at all.

Mr. Shidiye: Mr. Speaker, Sir, the Minister knows that the Government has assistant chiefs, chiefs, District Officers (DOs) and District Commissioners (DCs). These are officers who are on the ground to establish the genuine Kenyan Somalis from the ones from Somalia. That is the machinery the Government has on the ground to distinguish a Kenyan Somali from another one from Somalia. Now that the Minister has refused to revoke the screening cards and has failed to give us a satisfactory answer, could he go back to the Ministry and come back with a better answer? The answer he has given us here kind of displays apartheid to our people. This is just what happened in South Africa a few years ago. Are we in a different country to deserve this kind of treatment? We are in one country and we want to be one Kenya. Therefore, could the Minister go back and bring a better answer to this House? This is because we do not deserve this kind of treatment. We are genuine Kenyan Somalis and we want our people---

Mr. Speaker: Very well. Mr. Shidiye, you are now repeating yourself.

Maj. Madoka: Mr. Speaker, Sir, I do not need to go back because all the information I have here is correct. I would like to suggest to the hon. Members that we can meet, have a further discussion and see how best we can identify the Kenyan Somalis from those from our neighbouring country, if they feel that what was done was not correct.

Mr. Badawy: On a point of order, Mr. Speaker, Sir. Is the Minister equally aware that apart from the Somalis, any applicant for the issuance of a national identity card who bears a Muslim name has to produce his birth certificate and his parents and grandparent's birth certificates? Ironically, when the same people apply for birth certificates, they are required to produce their national identity cards. So, it is really a big contradiction! Could the Minister rectify that anomaly?

Maj. Madoka: Mr. Speaker, Sir, I am not aware of that, but if there are specific cases, we will certainly look into them.

Mr. Keynan: Mr. Speaker, Sir, first of all, this particular exercise was started in 1989 and not 1996, as the Minister has put it. This exercise continued for just three months. It is 10 years now since the exercise took place. What will happen to the Kenyan Somalis who are supposed to get national identity cards? This is because there is no office where these people can go and obtain a screening card unless they go and get one from River Road. There is no office which issues screening cards in this country. So, what will happen to these Kenyan Somalis who have reached the age of obtaining a national identity card? We cannot continue to carry our passbooks when South Africans have decided to throw theirs away. This is shameful to this nation. The Minister is dealing with enlightened Kenyans, who include hon. Members of Parliament. Could he tell us when we complained or asked to be issued with this document?

Mr. Speaker: Order! Order, Mr. Keynan!

(Mr. Keynan stood up in his place)

Mr. Keynan, you asked a very valid question and you want to spoil it by asking many other questions. Mr.

Minister, Mr. Keynan is saying that the so called screening card was only issued for three months in 1989 and then the exercise was stopped. So what will they do now since the exercise was over in 1989?

Maj. Madoka: Mr. Speaker, Sir, the intention of the Government at that time was to ensure that the exercise covered all the Kenyan Somalis. For children who were born after that period, their parents, obviously, would have got the national identity card and, therefore, there should be no problem. But as I have said, I do not think that we really need to wrangle over this issue. We can always find a solution to it. I think we can sit down with the hon. Members and see which is the best way forward. These hon. Members are the same people who are complaining so much about insecurity in that part of the country, and yet, they know its cause. If they could only co-operate with the Government, then, maybe, some of the problems in that province would not occur.

IMPORTATION OF EGGS

(Mr. Ndicho) to ask the Minister for Agriculture:-

(a) Is the Minister aware that due to massive importation of eggs and poultry products to Kenya from South Africa and Israel, the local eggs market has been adversely affected?

(b) Is he further aware that both poultry farmers and poultry feed manufacturers are experiencing heavy losses in their businesses due to these imports?

(c) What urgent measures is he taking to stop these imports?

Mr. Speaker: Mr. Ndicho not here? His Question is dropped.

(Question dropped)

POINTS OF ORDER

SETTLEMENT OF SQUATTERS

Mr. Kiunjuri: On a point of order, Mr. Speaker, Sir. I rise to request for a Ministerial Statement from the Minister for Lands and Settlement. In November, 1998, the Minister promised to settle squatters from Kahurura, Gathieru and Motirere in Mount Kenya Forest. He accepted in this House that land had been set aside and the squatters were to be settled. He even appointed me to the Committee which was supposed to settle those people.

I would like to inform this House that three weeks ago, the Provincial Commissioner, Central Province, Mr. Kiilu, declared that there are no squatters to be settled on that piece of land. We would like the Minister to come out clearly so that we can know who is really confusing us. He should come up and tell us whether it is the Minister in this House or the PC, Central Province, who is confusing us. I would like to inform this House that the PC went ahead and declared me *persona non grata* in Central Province for raising the issue of this piece of land. I cannot go home now because I have to pass through Central Province. We would like to know the action that will be taken against this discriminatory and segregative PC, who is behaving as if we are still under the colonial regime.

Mr. Speaker: Order! Mr. Kiunjuri, you made a valid point and you spoilt it by going a little out of the way. I do not accept that any more.

NEGOTIATIONS BETWEEN GOVERNMENT AND IMF

Dr. Ochuodho: On a point of order, Mr. Speaker, Sir. I stand on a point of order to seek a Ministerial Statement from the Minister for Finance. In view of the just ended visit by the International Monetary Fund (IMF) team, and in view of the fact that loans repayment lies with all of us, our children and, sometimes, our grandchildren and not just the Government alone; and in view of the apparent failure of the donors to agree with the Government officials, could the Minister tell this House, and thereby the nation, what was the outcome of those deliberations that have been going on for the past two weeks? Could he also tell us why the Opposition was not involved in these negotiations?

Mr. Speaker: Yes, Mrs. Mugo.

(Dr. Ochuodho interjected)

Mr. Speaker: Order! Dr. Ochuodho, please do not run the House for me. Let me do that!

RAMPANT VIOLATION OF WOMEN

Mrs. Mugo: On a point of order, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of Internal Security. We understand that there are cases of robbers raping and violating women. Just before we went on recess, I had raised the same issue and the Minister promised to give a Ministerial Statement in this House. Unfortunately, he was caught up by time before he did so. On the Floor of this House, the other day, we were informed about a warden who raped women in their cells. We do not know why a male warden would be in the cells of women. We also understood that this officer was only interdicted. That means that he is free out there violating more women.

A few months ago we heard of a child who was raped and impregnated by a security man in Nyeri, and upto now nothing has been done to assist this child even after she gave birth and her parents tried to seek justice. Could the Minister tell us what the Government is doing to protect women in this country against such rapists; especially taking into consideration the issue of AIDS. In fact, raping is equal to killing! How many murderers are running around in Kenya and they are known?

Mr. Munyao: Who rapes the other? Is it the woman who rapes the man or vice versa?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, maybe if the hon. Member gave specific cases, I would respond to what she is talking about. But I will certainly make a general Statement about the raping individuals in this House.

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

Mr. Speaker: Order, Mrs. Mugo. When a Member is responding to your point of order, you are out of order to rise on another point of order.

Mrs. Mugo: May I then---

Mr. Speaker: Order! Mr. Arap-Kirui, did you want to respond to Dr. Ochuodho's point of order?

The Assistant Minister for Finance (Mr. Arap-Kirui): No, Mr. Speaker, Sir, except to say that I noted his comments and we will come back with a Statement later.

Mr. Speaker: Very well. Mrs. Mugo, the best thing to do is to get in touch with the Minister, give him all the details you have, so that he can come and respond when he has all the facts.

Mr. Magara: On a point of order, Mr. Speaker, Sir. Hon. Kiunjuri has made a very serious allegation against the PC, Central Province. He said his life is threatened by the PC. Since he is an hon. Member of this House, could the Minister clarify and state the position of the PC?

Mr. Speaker: Order! Mr. Kiunjuri has had no trouble at all going to or coming from Nanyuki, to the best of my knowledge. Next order!

MOTIONS

AMENDMENT TO THE TRADE DISPUTES ACT

Mr. Mugalla: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the fact that cases raised in the Industrial Court under the Trade Disputes Act go through a very laborious, long and expensive process to the disadvantage of employees; this House urges the Government to urgently introduce a Bill to amend the Trade Disputes Act in order to allow for faster methods of resolving disputes and adequate compensation for wrongful dismissals.

Mr. Speaker, Sir, the Trade Disputes Act is a very confusing Act. It speaks of one thing and in the next page, it speaks of something different. Now, the point at issue here is that the Trade Disputes Act delays disputes upto five years before they are settled. This is because the Trade Disputes Settlement section has no limit as to when cases would be finished. When a union reports a trade dispute to the Minister for Labour, the dispute could stick there even for a year or even three years. The Ministry of Labour would then have to process that dispute. After processing that dispute and the parties do not agree, they go to the Industrial Court. The process of going to the Industrial Court from the Ministry of Labour may take another one year. Once the case goes to the Industrial Court, it may even take five years. So, with this kind of machinery, a young man who had just got a job and married, might end up taking five years and at the end, he will have no home, house or wife. These are the inequities we feel must be corrected. There must be speedy settlement of workers' disputes.

Mr. Speaker, Sir, we only have two Industrial Courts in Kenya to solve all matters that pertain to disputes which workers have with their employers. Now, because of the smallness of the Industrial Court, cases take a very long time to solve. Now, if a case takes place in Kisumu, for it to reach the Industrial Court in Nairobi is just a dream. If a worker has lost his job and his case is being handled for five years, then there is no justice here, because justice delayed is justice denied. So, we have no justice in this process of settling workers' disputes.

[Mr. Speaker left the Chair]

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

The other thing we would want amended in this Act is that the Industrial Court must be restructured, so that it can fulfil the need of the workers. The Industrial Court should be decentralised, so that we have one in Kisumu, Mombasa and other major towns. There is a very serious matter in the Industrial Court. If a Judge makes a judgement which is obviously wrong, and sometimes it is so, the worker cannot appeal anywhere. So, one thing that we would also want done is to expand the Industrial Court and have an appeal court within the Industrial Court, but not outside the Industrial Court, so that workers' disputes can be speedily solved. For now, the Trade Disputes Act, from the very beginning, has made the Industrial Court incapable of settling workers' disputes. This must be changed. A lot of things are changing in Kenya and there is no reason why the Industrial Court cannot make changes which will help both the employers and the workers.

The employer also feels bad when a case drags on for years. There is also a very serious shortcoming or loophole in the Trade Disputes Act because in a case where the employer declares an employee redundant, the Act says that the employer should report his intentions to the Minister and the union. If the union and the employer agree that the redundancy is genuine then that matter may be settled. If it is not genuine, because the employer is merely down-sizing, the labour force for the sake of maximising profits, it will be an issue for declaring a dispute.

For some reason, the Trade Disputes Act amendment was literally sneaked into the Finance Bill instead of laws governing labour matters. It has given the employers the right to declare workers redundant without declaring a dispute through what they call retrenchment. What is the difference between retrenchment and redundancy? We blame our top leaders for this. They should not depend on the World Bank and IMF for every assistance that they seek. This thing was inserted in the Act to reduce the powers of the union. It has been supported by the Minister and the Industrial Court. If I may quote a few of these cases---

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Mugalla, use the microphone!

Mr. Mugalla: A dispute was reported to the Tea and Coffee Research Board Foundation and the Kenya Union of Commercial Estates Workers. There were five issues. One of the issues was the intention by the Foundation to retrench staff without involving workers in deciding the modalities and payment package. The union wanted to know the extent of their retrenchment and the payment package. I have a letter from the Minister dated 19th March, 1999 which says: "A conciliator has been appointed to deal with only five items excluding the retrenchment." The Minister for Labour recommended that Item Five should be rejected. This means that a worker has no right to question termination of his employment. This matter was supported by the Industrial Court of Kenya. This case was heard in Court No.34 in 1998 before Justice Charles E. Chemutut who was presiding and being assisted by Mr. Maitha and Mr. Kerich. They said that redundancy lacks any meaning as far as the union is concerned. They also stated as follows: "Considering all the circumstances of this case and the general principle as discussed above, we are of the opinion that the question of redundancy is a matter to be decided by the company alone." This means the union has no right to question the issue of redundancy. If it cannot be laid down as a condition, then the company should consult the union. We had to consult because there were some employers who wanted to get rid of workers just to maximise their profits.

The Judge said that it cannot be laid down as a matter to be decided by the company alone on condition that the company's decision should be taken only after consulting the union. If the union can create a healthy atmosphere or acquire the consideration of the employer, then the latter may feel encouraged to seek the opinion of the former on matters of administration. Now, here is a case where the employer is being given power by the Industrial Court's award which cannot be appealed against. The Judge made the following ruling:

"With the foregoing observation, I cannot accept the demands and suggestions of the union that the company should have consulted them in matters of reduction or redundancy of employees. The company may, therefore, proceed with the reduction of the employees."

This is the ruling of the Industrial Court which is the highest court that we have in this country. This award has made unions impotent in representing the workers on issues of redundancy. This Bill was slipped here

because of a demand by the World Bank; to achieve their aim of weakening unions. These are the same things we see happening in Kenya. These things are making Kenya more poorer than it should be. If people in the country are not protected by the law, then who should protect them?

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the hon. Member make a very unfortunate statement here. Since he is the Secretary-General of COTU, what is COTU doing about the issue?

The Temporary Deputy Speaker (Mr. Poghiso): Surely, what is your point of order, Dr. Ochuodho?

Mr. Mugalla: Mr. Temporary Deputy Speaker, Sir, I have brought this Motion here because I am a Member of Parliament. My colleague spoke without considering the plight of the workers because---

The Temporary Deputy Speaker (Mr. Poghiso): Order! Mr. Mugalla, your time is up!

The Assistant Minister for Agriculture (Mr. Karauri): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member referring to the hon. Member as "Your Lordship" or the Chair?

Mr. Mugalla: Mr. Temporary Deputy Speaker, Sir, my friend is confusing the House and he is one of the people who have---

The Temporary Deputy Speaker (Mr. Poghiso): Order! Your time is up. Who is seconding this Motion?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I stand to second this Motion because I am aware that many employees do suffer because the procedures are very cumbersome. I have known cases where disputes have taken a year and half to be sorted out. As the Mover of this Motion said; justice delayed is justice denied.

Mr. Temporary Deputy Speaker, Sir, the problem sometimes is not so much the actual procedure in place. Many times, it is actually the members of the trade unions themselves who delay these disputes. I think to be able to sort out this issue, what we really need in The Trade Disputes Act is a time-frame that each stage should take. I know in most collective bargaining agreements, the time-frame has been set for each stage of the dispute. Certainly, I agree that when it goes to the Ministry of Labour, there have been long delays.

Mr. Kombo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I just want to seek guidance from the Chair. This is a Private Member's Motion and it is being seconded by a Government Minister. Is that in order?

The Temporary Deputy Speaker (Mr. Poghiso): I hardly think there is a problem in that situation. We do not have anything in our Standing Orders to prevent him from doing that. Proceed, Mr. Minister!

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Temporary Deputy Speaker, Sir. I dealt with trade unions for a long time and I am fairly conversant with regulations. I think it is in order for me to support my friend, Mr. Mugalla.

As I was saying, in the Collective Bargaining Agreement, there is a time-frame set for each stage. It is only when it goes to the Ministry of Labour that there is a delay. I certainly agree that there is need for some time-frame so that the Ministry of Labour can speed up the process of solving these disputes. I am also aware that in the Industrial Court, in the past, we used to get an award within two weeks after the hearing. But today, even the Industrial Court is taking up to six months or a year to give the awards. That certainly needs to be sorted out so that employees do not continue to suffer

Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to say also that the trade unions need to be more vigilant in representing their workers because I know that trade union members are not getting a fair deal from their unions. This is because the unions are not properly managed. Many times the trade unions have no funds, they employ very mediocre staff and the officials are compromised when they deal with employers.

I think definitely the unions also need to think of a way of setting up supporting funds so that when an employee is waiting for a dispute to be sorted out, they are able to support him because, many times a member will suffer for one year. Because the union has nothing to lose, they do not bother following up the case; they just drag it. I have known cases where union officials will go and see an employer; they are given a little token and they go away. They keep on coming four or five times simply because they want to earn some money as they are poorly paid. So, the trade unions themselves in this country need to get their act together. They need to establish proper funds. They need to set up strike funds so that if at any time they have a strike, they are able to support their members. I am not advocating for strikes because the procedure for resolving disputes in this country is well set out. If it is followed, we have no reason to have strikes. But there are smaller employers who are stubborn and who do not want to follow the laid-down rules or procedures in settling disputes.

Mr. Temporary Deputy Speaker, Sir, I do agree that there are times when these younger, smaller companies do not follow the procedures and there may be need to go on strike. If this happens, the unions need to have strike funds so that they can support their members. I also agree that the entire labour laws in this country

need to be looked at because there are many sections which are not fair to the employees and equally, to the employers.

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

(Question proposed)

Mr. Munyao: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to echo my support for the feelings, sentiments and philosophies expressed in this Motion. The intentions of this Motion are very good. The Minister in charge of Internal Security in this country has seconded this Motion and reasoned so well on it. If the whole thing is taken that way and there is commitment from the Minister for Labour and the Government as a whole, this will be very good. The Motion has very good intentions.

Mr. Temporary Deputy Speaker, Sir, we must emulate the first trade union movement in this country. I have got in mind people like the late Tom Joseph Mboya who actually set the rules of this game. He is the first nationalist known to have fought for workers and set the current regulations which are followed in this country.

I also have in mind people like Dennis Akumu who used most of his youthful life to fight for the workers in this country. He actually managed to come out very well, particularly in connection [Mr. Munyao] with the dock workers in the Port of Mombasa. Others are people like Juma Boy who worked very well, locally and internationally, to build the name of the trade union movement in this country.

Mr. Temporary Deputy Speaker, Sir, having said that; as a leader; an employer and also an employee of the public, I am speaking as a bitter person because of the trade unions that currently exist in this country. This country and the workers in Kenya are suffering in the hands of the so-called COTU. The leadership of the trade unions in this country is completely bogus. COTU will never be able to move a yard as long as it is a sub-branch of KANU. The other day I was on record as having said that, if COTU is now part of KANU, where do workers report their grievances because COTU is submerged in KANU, from the sub-location level---

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

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, he is the Mover and he cannot interrupt. Let him wait and listen to what we are saying about him.

Mr. Mugalla: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member is misleading the House. He has never read the COTU constitution---

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

Mr. Mugalla: Mr. Temporary Deputy Speaker, Sir, my point of order is that, COTU is not an affiliate of KANU.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, that is not correct. It is a known fact that the Mover of this Motion who is the Secretary-General of COTU, is the Chairman of KANU in his area. How then, does he separate himself from KANU?

Mr. N. Nyagah: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform hon. Munyao, that even though, currently there is no affiliation between COTU and KANU, the status is, that the head of COTU has to be ratified by the Head of State. So, there is still that affiliation.

Mr. Munyao: Thank you, Mr. N. Nyagah for that genuine and useful information.

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

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I do not want his information.

As I said, I am a bitter man. Workers in this country are really suffering. They are oppressed by none other, but their employers. Every worker in this country contributes to COTU and many other trade unions affiliated to COTU. The Central Organization of Trade Unions is the body which is supposed to be taking care of workers, and yet it is the one which is oppressing workers. Where are we supposed to go for assistance?

Mr. Temporary Deputy Speaker, Sir, unless we have a body which is genuine and concerned with the workers' problems, we are heading nowhere. I support the sentiments of the hon. Minister because those are some of the issues I had in mind. Today, there is no trade union operating satisfactorily. That is why the working conditions of workers have gone back to the time before this country attained Independence. For example, employees of Asians in Industrial Area can be sacked at will. The Asians know that there is no action that can be taken against them. They simply bribe Ministry of Labour officers and that is the end of it. Today, workers are being treated like slaves. There are no defined working hours because there is no organization which can defend them. There are no regulations as regard, safety of the workers. Even when union officers visit factories and other places of work, they do not carry out any inspection. They simply go to the employer who bribes them and that is

the end of it.

Mr. Temporary Deputy Speaker, Sir, worst of all, workers are not paid on time. It is the duty of the unions to demand timely salary payment. I know several companies in Industrial Area which have not paid workers to date, but they cannot complain about it.

The plight of casual workers has not been tackled because the unions are not interested in the issue at all. The casual workers cannot appeal anywhere because if they did that, they would lose their jobs and everything else. Employers are aware that it is cheaper to keep somebody as a casual worker than a permanent employee. Because, as a casual worker they are not entitled to leave, working hours and everything else that can be regulated. Workers are really suffering. If we had good trade unions, they would ensure that workers are provided with transport to and from duty. Twenty years ago, before the current COTU was in place, employers had buses to transport their workers to and from their places of work. British American Tobacco was the first to provide this service, along with the East African Industries, the defunct East African Airways and many other organizations. Every employer provided accommodation, means of transport, to and from work and even boots, gloves and the rest. Today, if you walked into some of these places of work, like pharmaceutical industries where there are dangerous chemicals, nobody seems to care. Where are we heading to?

Mr. Temporary Deputy Speaker, Sir, it is high time we dissolved COTU and forgot about it, because it is the Chairman of this corruption. Every union in this country is corrupt, and their Chairman is COTU. I am surprised to see the Secretary-General of COTU trying to shed crocodile tears over the plight of workers as though he is actually sympathising with the worker. The Central Organization of Trade Unions does not sympathise with the worker. I am happy that nobody turns up to attend their national days. How does the worker turn up for such celebrations?

Mr. Temporary Deputy Speaker, Sir, another serious point is that COTU and FKE representatives sit on the Board of Management of the NSSF. It is a pity that NSSF which is supposed to take care of workers' money has no money on their deposit account. These are the people who are squandering workers' money. Every investment which has been done legally or illegally by NSSF, like purchasing of plots, is done with the workers' money. A worker retires after working for 20 to 30 years and is not paid retirement dues. It is a miserable situation. We are all suffering in the hands of COTU and other trade unions. What is the best way out? Should we sit down and agree on another method? I plead with the Minister for Labour to involve himself in the operations of trade unions. I know if he involved himself, the situation would improve. I can see the Assistant Minister who is very capable in the House. If I was in a position of upgrading Assistant Ministers in the Government, I would upgrade this Assistant Minister. I know he can serve this nation to the next millennium. He looks like a real Minister, and I am very happy to see such a person. When he takes the Floor to speak, we see in him a person who has got a bright future in this country.

Mr. Temporary Deputy Speaker, Sir, I would like to urge professionals in this country to get involved in looking at the workers' problems. I know the Government would definitely be involved. I was very happy to hear what hon. Madoka said about trade unions. He showed real concern, which was totally different from what we heard from the Mover. The Central Organization of Trade Unions must totally be dissolved and forgotten in this country if workers are to get anywhere.

I support the sympathy and philosophy expressed in the Motion, but not COTU.

Mr. Badawy: Asante sana Bw. Naibu Spika, kwa kunipa nafasi, ili nichangie Hoja hii. Hakuna sababu kiongozi yeyote asiwe na huruma na kuunga mkono Hoja hii. kwa maslahi ya wafanyakazi, kwa sababu, hali yao ni duni kabisa, na haina tofauti na utumwa. Ukweli ni kwamba, wafanyakazi ni kama watumwa kwa sababu ya malipo duni. Kuna wafanyakazi wachache sana ambao wanalipwa kulingana na malipo yanayostahili kulipwa kisheria. Wao pia ni kama watumwa kwa sababu terms and conditions katika mahali pa kazi, na yale wanayonyimwa kulingana na haki zao wakati wa kufanya kazi, wakati wa ugonjwa, wanapoumia na hata wanapostaafu pia, haki zao hazilindwi sawasawa.

Bw. Naibu Spika wa Muda, inamchukua mfanyakazi mwaka mmoja au miwili kulipwa malipo ya uzeeni. Ingawaje aliyeleta Hoja hii ameshughulikia sana kurekebisha kwa hii sheria kutokana na upelelezi wake na maarifa yake juu ya Industrial Court, hakuzingatia haki za wafanyakazi, hata zile zinazofaa kulindwa na District Labour Officer. Kwa mfano, kunyimwa mshahara, haki zao kucheleweshwa na kufutwa kazi kwa njia isiyo sawa. Mfanyakazi anafaa kushughulikiwa na ofisa wa uajiri katika wilaya.

Kule Malindi tumefanywa watumwa wa wale investors katika sekta ya utalii. Idara zote za Serikali zinanyenyekea investors. Inafaa kunyenyekea investors wakati wanajali maslahi yetu. Lakini, ikiwa tutaendelea kuwanyenyekea hawa investors hadi tutupe haki za wafanyakazi wetu wanaponyanyaswa katika utekelezaji wa kazi zao, na kulingana na malipo na masaa wanayofanya kazi, eti ndio investors wasitoroke nchini, ni heri watu wetu waache kazi, warudi mashambani na walime, kuliko kunyimwa haki zao.

Bw. Naibu Spika wa Muda, ninavyozungumza hapa, huko Malindi kuna wafanyikazi wasiopungua 300 ambao wamenyimwa mishahara yao na matajiri wageni. Matajiri hao wameenda zao na maskini hao hawajui la kufanya. Baadhi ya matajiri hao wanarudi kila msimu wa utalii, baada ya msimu wa utalii wanaenda zao. Hata wanapokuwa hapa nchini, wafanyikazi hao wanapowasilisha malalamishi yao kwa ofisa wa leba, anawaambia hana gari, simu, karani au tarishi wa kupeleka barua kuwaita matajiri hao. Hata wanapokea barua hizo, matajiri wale hawaji. Ukisema watu hao wapelekwe kortini, unaambiwa kwamba mahakama ina kesi nyingi sana za aina hiyo. Kwa hivyo, kama ni marekebisho, lazima yawe marekebisho sio tu ya kuangalia mizozo inayofaa kupelekwa katika Korti ya Viwanda, lakini hata kesi zile ambazo zinafaa kusikizwa na District Magistrate, Resident Magistrate au Chief Magistrate. Lazima tuhakikishe kwamba haki za wafanyikazi zinatetewa na mahakama hizo ambazo kama ninavyosema mara kwa mara unaambiwa kwamba mahakama haina nafasi ya kuangalia mambo kama haya.

Bw. Naibu Spika wa Muda, ninakubaliana na mhe. Mugalla kwamba kesi zinazotakiwa kufikishwa katika Korti ya Viwanda zinachukua muda mrefu sana. Lazima tuelewe kwamba kesi hizo zinapochukua muda mrefu, wafanyikazi wanaohusika kutokana na hatua za matajiri wao, wanazidi kudhoofika na kupata shida nyingi na familia zao. Kwa mfano, kuna wafanyikazi 85 wanaofanya kazi katika hoteli inaitwa Hemingway Resort kule Watamu, Malindi. Wafanyikazi hao wamesimamishwa kazi kwa njia isiyokuwa ya halali kutoka mwaka wa 1996 mpaka Januari mwaka huu wakati wamepewa kibali na Waziri wa Leba kuwasilisha kesi yao katika Korti ya Viwanda. Walijaza fomu zile zinazohitajika kutoka Januari mwaka huu, lakini hawajapewa kibali au ishara kwamba kesi yao itasikilizwa. Wafanyikazi hao 85 hawajapata haki yao ya aina yote hata mishahara wa ule mwezi walisimamishwa. Waliachizwa kazi kwa kujiunga na chama cha utetezi. Tajiri aliwapa nyongeza kwa kuwahurumia ili wajiondoe kutoka kwa chama cha wafanyikazi. Walipokataa kutoka katika chama, aliwatafutia kila mbinu ya kuwafuta kazi na aliwafuta kazi kwa njia isiyohalali. Wafanyikazi hao mpaka leo hivi wamefuata mambo yao bila mafanikio. District Labour Officer na Provincial Labour Officer, Mkoa wa Pwani, wameandika barua. Industrial Relations Officer ameingilia mambo haya, hatimaye, pamoja kwamba kuna ushahidi wa kutosha kwamba wafanyikazi hao wameonewa, Waziri ametoa uamuzi kwamba hawana mashtaki. Kwa hivyo, wakitaka wapeleke mashtaka yao katika Korti ya Viwanda. Hivyo ndivyo wafanyikazi wetu wanavyotendewa.

Ninavyozungumza, yale niliyoyaleta hapa Bungeni siku ile kwamba wageni sasa wanapewa vibali vya kufanya kazi, kuna Mhindi mmoja ambaye anaambiwa ni mhasibu. Ni kweli kwamba nchi hii haina vijana wenye Shahada ya Commerce na Certified Public Accountants (CPA) wa kutosha kiasi kwamba ni lazima tuwalete Wahindi kutoka Bombay kufanya kazi ambazo hata si za kitalaamu; ni kazi ya kuzunguka kugawa mishahara tu. Kwa mfano, kuna Mhindi mmoja ambaye amepatiwa kibali na pengine Waziri atakaposimama kujibu atasema mambo hayo yanayohusu Idara ya Uhamiaji, Ofisi ya Rais. Ukweli ni kwamba ikiwa idara za Serikali yetu hazitakuwa na ushirikiano, matatizo haya ambayo yanawakabili wafanyikazi hayatatatuliwa. Kuna tatizo la kuwapa wageni vibali vya kufanya kazi ili kuwaondoa wafanyikazi wenyeji. Na eti tatizo hili halihusu Wizara ya Leba kiasi kwamba Wizara ya Leba haiwezi hata kumwambia mkuu wa wilaya akajulisha Idara ya Uhamiaji ili waangalie matatizo kama hayo? Kuna Mhindi anayelitwa Kamlesh Nayash ambaye amejiriwa na shirika la Shah na Devani Accountants. Kazi yake ni kuzunguka kugawa mishahara kwa niaba ya mashirika fulani ya watu binafsi kule Malindi. Kazi hiyo haikuhitaji utalaamu na ilikuwa inafanywa na Mkenya anayetwa Abid Hassanali ambaye amechizwa kazi. Hakupewa barua ya kuachizwa kazi na haki zake hazikuzingatiwa. Kazi hiyo ambayo si ya kitalaamu inafanywa na Mhindi mgeni na siku ile tuliambiwa hapa kwamba hakuna wageni wanaofanya kazi zinazoweza kufanywa na Wakenya huko Malindi.

Bw. Naibu Spika wa Muda, lazima Wizara ya Leba iangalie ule msemu, na hata ulifadhiliwa na International Labour Organisation (ILO), wa kuhakikisha kwamba vijana wadogo wanaajiriwa kazi. Kama labda kuna kiwango fulani tunafaa kuwahurumia vijana kutafuta karo, wapewe kazi ndogo ndogo wakati wa likizo. Lakini hivi ninavyoongea, kuna vijana chungu nzima ambao wameajiriwa kazi mjini Malindi. Ninashangaa kuona kwamba hata mzazi wao hata mmoja hajapelekwa mahakamani kushtakiwa kwa kuacha vijana wake kufanya kazi wala tajiri anayewajiri kwa njia isiyohalali. Kwa hivyo, kama tunajiunganisha na muungano wa aina yoyote katika ulimwengu mzima, katika sheria za leba chini ya ILO, lazima tuhakikishe kwamba tunazifuata na tunajiunga kikamilifu. Vijana wanaendelea kutumiwa vibaya huko Malindi na sehemu nyingi za nchi hii kwa kufanya kazi za watu wazima. Lakini unyanyasi wa vijana na watu wazima unaendelea. Unyanyasi wa kila aina unaendelea bila ushahidi wa aina yoyote.

Ninaunga mkono maoni ya Waziri Maj. Madoka kwamba kuna watu wa kwanza ambao lazima wajitolee kuwania na kuwasaidia wafanyikazi ni vyama vya wafanyikazi. Vyama vya wafanyikazi mara nyingi sana vinadharau kuwatetea wafanyikazi wao. Ikiwa sio katika kiwango cha COTU, lakini vile vyama ambavyo vinashirikishwa na COTU vikipelekewa matatizo ya aina yoyote inakuwa shida kuyahudumia. Mara nyingi sana mfanyikazi hapati haki. Hata kama ni mfanyikazi ambaye alikuwa analipwa kwa kila siku ni mwanachama wa

chama kile. Ikiwa tunasimama kuwatetea wafanyikazi, lazima sisi wanasiasa na vyama vya wafanyikazi tuhakikishe kwamba tunatekeleza utetezi na uwakilishi wa kiuaminifu kuwasaidia na kuwaokoa watu wetu katika matatizo yanayowakabili kila siku.

Inaonekana kwamba kuna mashirika fulani yanapendelewa zaidi ati kwa sababu ni multi-national, kwa mfano, UTC. Shirika hili lina mtindo wa kuwafuta madereva bila kujali. Kuna dereva anayeitwa Mohamed Abdulla alienda safari. Hata akiwa safarini, ilikuja ripoti kutoka National Park ambayo ililetwa kwa matajiri wake, UTC, akafutwa kazi kabla hajarudi kwa stesheni yake. Amefutwa kazi bila kupewa hata ndururu moja katika haki zake. Kwa miaka minne leo, hapati usaidizi katika Ofisi ya Leba au chama chake au mtu yeyote.

Kwa hayo machache, naunga mkono.

Mr. Ndicho: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I am privileged to contribute to this Motion concerning the Ministry of Labour. My constituency has got the second largest number of employees from the 150 large, medium and small industries.

Mr. Temporary Deputy Speaker, Sir, those people working in those industries might be classified as employed in those industries, most of which are owned by Asians. If there are Kenyans who are employed, but live as if they are unemployed, there are those who are employed by Asians. The Kenya Government, through the Ministry of Labour, has abdicated its duty and role of protecting employees in this country.

Mr. Temporary Deputy Speaker, Sir, the Indians, or Asians in general, have taken over the labour industry in this country. They have also taken over the Industrial Court. When we had an Africa judge started heading that court, we thought that he was going to be lenient to his fellow Africans but he is the worst. Asians have taken over the Industrial Court and that is why this Motion is very well-worded by the Secretary-General of COTU, where he is asking for faster methods of solving disputes. Employers of Asian origin have also pocketed all labour officers at the district, provincial and national levels. They are all copying and singing the tune of Asian employers.

(Loud Consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order!

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, whenever an employee takes a dispute to the court either for wrongful dismissal or for any other reason, the Asians tell him: "You can go anywhere. You can report me to a Member of Parliament and he will take me nowhere. You can go to the DC and he will take me nowhere; you can even go to the President and he will take me nowhere". Why has the Government allowed the labour movement in Kenya to be an extension of the unemployed Indians from India?

Mr. Temporary Deputy Speaker, Sir, many of them do not know how to speak either English or Kiswahili. They only know one language called Gujarati at the expense of our people. The Government now has a policy on poverty eradication. How does the Government expect to eradicate poverty in this country, when its citizens go unemployed and go on to employ Asians from the Indian Sub-continent? The Government must change its attitude towards its citizens.

Mr. Temporary Deputy Speaker, Sir, at the moment, the Government is cracking down on matatus because of the Transport Licensing Board (TLB) and the essence of implementing TLB regulations is that, it is going to make the so-called touts or *manambas* who I am told are over one million and are self-employed in the matatu industry jobless. I heard one person speaking in the media called the Commandant of Traffic, a Mr. Angote saying: "This country no longer needs manambas because passengers know where they are going and the manambas can now go home." That was very ignorant of a senior police officer, when he is advocating for self-employed people to be removed from their own industry and go home. To go home where and to do what?

Mr. Temporary Deputy Speaker, Sir, if the matatu *manambas* are going to be removed from the matatu industry, you rest assured that crime rate in this nation will double and will be the highest. It will no longer be safe for anybody with a tie to walk in the streets of Nairobi, without being mugged. This is because many people will be rendered jobless and the rate of unemployment will be increased and you can imagine what we are going to experience.

Mr. Temporary Deputy Speaker, Sir, when the Government talks about the eradication of poverty and then it is acting on issues and areas that are contradicting that, then these are double standards. The matatu industry is here to stay. The Government is going to lose, hands down. This is because even if the matatu people are now paying for the TLB just to have a licence, they still need people to man the stages and these are the matatu *manambas*. The councils which the Government is saying should man the stages, will not be able to do so. This is because it means that the councils or local authorities will have to employ these people on monthly wages and the effect of it is that, the already financially depressed councils will have an increased budget to pay for people to

man the stages. In any case, it will not be possible.

Mr. Temporary Deputy Speaker, Sir, we are told that the reason why there is this kind of crackdown, is there are a few tycoons who have organised themselves and they want to remove the ordinary matatu owners from the road and one tycoon can afford to buy 100 matatus and be allocated the Nakuru route. Another tycoon is given the Thika route while another the Machakos route and so on and so forth. It is high time the Government puts priority on the issue of employment. If the Government cannot provide employment for its citizens and goes to where people are self-employed and starts disrupting that self-employment, then Kenyans are left wondering what to do next. So, it is high time the Government left alone, those industries like the matatu one which is self-sustaining and conducting their businesses fairly.

Mr. Temporary Deputy Speaker, Sir, every sector of the world economy is being liberalised and we wonder why the Kenya Government now wants to control the matatu industry when everything else is being liberalised. I support the people who say that if the Government is unable to control all its matatus in the name of Nyayo Bus, how do they expect to control my matatu? So, it is high time the **[Mr. Ndicho]** Government left this issue of matatus alone. We support any efforts to control overspeeding, harassment of commuters and so on. However, when the Government goes into interfering with the running of that industry, then there is going to be a problem.

Mr. Temporary Deputy Speaker, Sir, I support this Motion. The Government must wake up and make sure that its citizens are well protected in their employment. We have seen a lot of illegal imports or dumping of manufactured goods from Asia, South Africa and Europe at the expense of our people. What we are doing when we import sugar in this country is to create employment for Asians at the expense of our people who are at Mumias, Chemelil and Muhoroni sugar companies. The employees there will be rendered redundant because there are no jobs for them. We have also seen people importing eggs and meat from Australia. Unless this Government is serious about the issue of employment, then it is sitting on a time bomb.

Mr. Temporary Deputy Speaker, Sir, we urge the Ministry of Labour not to be lenient to the employers who are out to frustrate their workers and it is not only Asian employers but there are also Africa employers who are equally as bad as their Asian counterparts. There are people who have got no mercy. Somebody works for an employer for five to ten years and then one morning, he is kicked out. It is high time the Government became more serious and protected the Kenyan citizens, especially the young people who are dropping out of school to be employed and especially, to be self-employed and self-reliant.

With these few words, I beg to support.

Mr. Shidiye: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the Motion.

The Motion before the House seeks to look after the interests of Kenyan workers. If you look around today, you will realise that the Kenyan worker is the worst-placed in Africa and the world. Kenyan workers are unpaid, and they do not have any insurance policy on health; they are very much malnourished. They earn as little as about US\$300 annually. A worker who earns that much should not be expected to deliver services effectively. I say so because, time and again, the employers in Kenya are the greatest culprits in this country.

Workers are employed on casual basis, and are not covered by any insurance policy. Worst of all is that even those workers who remit some money into pension or provident funds are not refunded their money on retirement. Even in public corporation such as the Kenya Posts and Telecommunications (KP&TC) and the Kenya Power and Lighting Company (KPLC), and many other companies, are marginalising the workers of this country. What counts for good working relationship and healthy workers is prompt payments to workers. These are the key things that help workers

We have flooded the country with foreign workers. If you go to the Nyayo House-based Immigration Department, you will find a number of work permits being issued to people who do not speak English, or Kiswahili, or French, but who only speak Hindi and other foreign languages. If we cancel the work permits being issued to those foreigners, we are sure of getting 500,000 jobs for Kenyans. Today, those jobs are going to other nationalities! This is a very serious issue, and should not be taken lightly. In the corridors of Nyayo House, there is inherent corruption. There are paper pushers there, and much bureaucracy. Those are the people who are causing many Kenyans anguish.

If you go to Nairobi's Industrial Area, you will find that people who cannot speak any language, and who have not acquired any formal education, are working. If I leave this country today and go to another country, I should forget about acquiring a work permit in that country. It appears that this country is on sale. A foreigner can come into this country and get citizenship within a week! This is hurting Kenyans. The Minister for Labour is in this House. Mr. Minister, if you are serious about the current unemployment problem in this country, cancel the work permits of those foreigners. If you do that, you will surely get 500,000 jobs for Kenyans.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Shidiye, please confine yourself to the Motion.

Mr. Shidiye: Yes!

The Temporary Deputy Speaker (Mr. Poghisio): Yes? That is not what you are supposed to do, Mr. Shidiye.

Mr. Shidiye: Yes!

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, Mr. Shidiye! I am saying that you have gone out of the Motion and you are saying "yes". Are you saying that you are supposed to go out of the Motion? You are supposed to have said something else.

Mr. Shidiye: Well, Mr. Temporary Deputy Speaker, Sir, I am touching on these things because that is the truth, and they affect every Kenyan. This country has surplus manpower which would have been exported to earn this country some US Dollars. If this had been done, we would not have had foreign exchange problems. We would not be very much in need of US Dollars with which to buy inputs.

Mr. Temporary Deputy Speaker, Sir, in this region, Kenya has the highest educated manpower. Why do we not export the benefit of educated manpower? Kenyans are an educated lot in this region. Unfortunately, it even takes a year for a Kenyan to get a passport. Kenyans have basic and masters degrees, but cannot get jobs. Recently, I met a colleague with whom I completed university education. After he completed his basic degree, he went further and got a masters degree. He is now back in the country, but he has not gotten a job. If Kenyans cannot get jobs in this country, and cannot look for jobs out of the country because they have been denied passports, something fundamental is seriously wrong with our system. That is why we are appealing to the Ministry of Labour to allow Kenyans to get travel documents as fast as possible, to enable them to look for jobs in other countries.

The work permits I am talking about must be cancelled. What is this devil stand for? Our people are not able to get jobs. We have excess trained manpower, but we are importing labourers from as far as Pakistan, India and China, who are now operating all over the country. This country has become heaven for those people. I do not know what trade unionists in this country are doing. You will realise that most trade union leaders are ill-educated, and cannot even bargain for the rights of the works they represent. If trade unionists cannot comprehend the issue of labour movement in this country, they should relinquish the leadership to people who understand what labour movement is all about.

The leadership of Kenya's trade union organisations should be left to those people who are trained, and who understand the problems facing our workers; they should be people with conscience. If you do not have conscience, you have no business leading Kenya's trade unions. Unfortunately, those people who are leading these organisations in this country today are the most corrupt individuals. Instead of fighting for the worker's rights, they go behind the backs of workers and compromise their interests. These are the things that affect the Kenyan worker.

What makes a worker to have a good relationship with his employer is the fringe benefits the worker gets. If the worker is provided with good housing, medical schemes, and other benefits such as payment of school fees for the worker's children, he will retain his job. These are the things that would keep a worker in his job, and not necessarily the salary he earns; salaries are nothing. If the salary, at least, enables the worker to buy food, that is enough. Today, if one retires from the Civil Service, he does not get his pension. Most of those people who hover around Parliament Buildings are retired civil servants, who have not been paid their pension. They have been following up their pension for many years. They are all over Parliament Buildings, looking for hon. Members to take them to where pensions are processed.

Mr. Temporary Deputy Speaker, Sir, the National Social Security Fund (NSSF) has been misused. Today, I would say that the NSSF is almost insolvent. The Fund is not even able to complete the housing scheme it is undertaking, and most of the workers who contributed money to the Fund are suffering. The majority of Kenyans have now reached their retirement age, and they now want their money, but they are not able to get it. This is so because their money has been put into improper use. Many people have gone into adventures using money that belonged to Kenyans workers. They just decided to loot it outright, and these are the key things that affect workers in this country.

Mr. Temporary Deputy Speaker, Sir, workers in this country are the most marginalised lot. Majority of them walk to and from work, since they cannot afford bus fare. Try to walk in the morning, and you will see a "string" of human mass walking upto the Nairobi's Industrial Area. You will wonder whether those people are demonstrating, and where they are heading to; you will get shocked. Some of them walk bear-foot, while others have no clothes to protect them from the cold weather that is experienced in June and July. You will feel hopeless and despondent. You will feel that, that is not what Kenyans deserve. A worker will only deliver if he is paid a

good salary. Those are some of the things that affect workers in this country.

Having said that, I would like to add that this country is turning into a retailer. I said recently that all the foreign goods that come into this country are from South Africa. Vehicles, vegetables, and other commodities come from South Africa. Now, where will people work in Kenya if we just import and sell other country's produce? We are working for foreign masters in Singapore, Malaysia, China and Japan. Our industries have collapsed. We have thrown our country's door ajar by liberalising the economy, and we are now importing all sorts of foreign goods into the country. That means we cannot industrialise, or do anything for ourselves.

This country's soil is among the most fertile soils in the world. Once somebody said that if you put your finger into Kenyan soil, the finger might even grow, because the soil is very fertile. Despite all this, we are now importing vegetables. By importing everything, we are employing workers of the countries from which the commodities are being imported. It is inconceivable to import eggs from South Africa; that is not being in business. Unemployment is the biggest obstacle to our development. So, in this country, we are talking about poverty because people are not getting jobs. Where do we expect our people to get jobs from when we give the jobs to South Africans, and other people from across the globe? If we are serious about the workers' plight in this country, we must industrialise and develop our country.

With those few remarks, I beg to support.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. I want to support the sentiments that have been expressed by my predecessors and, in particular, the Minister talked of a problem we have in trade unions. He said that many trade unions have been compromised and I could not agree with him more.

The main culprits in this regard happen to be the Government. I want to appeal to the Government, through the Minister, to stop interfering with the running of trade unions. Much as I support this Motion, I am a bit saddened that it is a wrong person who is bringing this Motion. This one person who has moved this Motion is himself very compromised. One may even argue that he has no moral right to---

The Temporary Deputy Speaker (Mr. Poghiso): This Motion is about Industrial Court and not about the person who brought it!

Dr. Ochuodho: Thank you, Mr. Temporary Deputy Speaker, Sir. You would agree with me that he has got very little right to talk for the labour movement. Again, many predecessors have mentioned reasons for that. When teachers were striking for their salaries increment, this is the one person who did not stand by them. Today is 14th July and a number of teachers, especially those in my district, have not been paid and he is not making noise about it. We know that Kenya Times Media Trust workers have not been paid for five months and he does not make noise about it, yet he belongs to the party that owns this newspaper. The arms of the Government are not working well because if various arms of the Government were working well, it would not be necessary for the hon. Member to bring a Motion to urge the Government to amend The Trade Disputes Act because they would do it internally. This is a clear testimony of the fact that various organs of Government are not functioning the way they are supposed to.

However, I must also take cognisance of my concern about the *sub judice* rule that has become obstructive to the realisation of justice in this country. Only about two weeks ago, we had a very serious Motion in this House; a Motion of censure which we were not able to fully discuss because of this *sub judice* rule. Equally, we know about cases like the case of the Grand Regency Hotel which has been going on and on and dragging because of these *sub judice* rule---

The Temporary Deputy Speaker (Mr. Poghiso): Dr. Ochuodho, you are just contravening what you have said yourself. You cannot bring it here!

Dr. Ochuodho: Thank you, Mr. Temporary Deputy Speaker, Sir. This is why I am not referring to them, but I am referring to how this law is being misused. I would want to hope that if these amendments are going to come, one thing they should ask for is that there must be a time-frame within which such disputes are handled. Unless that amendment is going to come, I do not think we are going to benefit much by calling for these amendments.

I am equally saddened that the one man who worked very hard to reform trade disputes; Justice Cockar, the man who deserved every reward from this Government, is now battling just to get his little pension. The Government should be ashamed that they should dare take Justice Cockar to court to deny him what was rightfully his having worked so hard to soothen problems within the industrial sector. Equally, I am a bit saddened that as we today talk about this nation, it is exactly 30 years since one single man who worked very hard to develop this sector; the late hon. Tom Mboya, is as good as forgotten; not only by the Government that he so selflessly served, but even by the very trade union that he helped to nurture. As to a kinsman of Mboya's nature, I feel very slighted,

both by the Government and the trade unions that this is one person that they have chosen to forget while I do not think they should have done so. On behalf of Mboya's kinsmen, I want to tell the Government that sooner rather than later, we are going to have a celebration to recall the one man who did so much to this nation; who worked his entire life for this nation. For reasons that up to today, have not been explained by the Government which promised to leave no stone unturned, they have not told us who killed hon. Mboya. We as his kinsmen, are going to recognise him sooner rather than later.

As we call for amendments to this Act, it will not be useful if we are not going to allow for alternative trade unions. We know that some people have been making attempts to register national trade unions, but surprisingly, COTU has been resisting the registration of these alternative trade unions. We are in an era of liberalisation. In the same token that we allowed multi-partyism to take root, so should we allow multi existence of trade unions. I hope that Mr. Mugalla, the Mover, has in mind allowed alternative trade unions which can talk genuinely for the masses and serve the interests of the workers and not the interests of some big tycoons or the Government agent. I hope as we call for amendments, we bear in mind that we are going to liberalise the trade union sector.

Much as I agree with what hon. Muniyao said earlier on, calling for the disbanding of COTU, I do not think the problem is COTU. We should call a spade a spade. The problem is the leadership of COTU and one single man who cannot decide on which master he wants to serve. He should decide whether to serve God or Satan, but not to serve both. The problem lies with the COTU leadership and not so much with the trade unions. I also hope that as we call for amending of this Act, that we will legitimise strikes. One Member contributing said that we have systems in place---

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker. The hon. Member says that COTU leadership is the one with problems and they must choose whether to serve Satan or God. Who is this God and who is this Satan?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, hon. Keah knows very well what I am talking about. He is not a child to be fed on milk, but he can feed on ugali! Unless we legitimise strikes, we should not even dream of amending this Act because although it has been claimed that there are channels of resolving conflicts---

The Temporary Deputy Speaker (Mr. Poghiso): Order! Dr. Ochuodho, I really would like you to keep off discussing character of any Member here!

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I was no longer talking about God or Satan, but I am talking about strikes. A strike would occur in any trading union sector. They would occur in the teaching trade unions or even other trade unions. When the bankers went on strike, of course, there is nobody who diluted their strike more than COTU. I am, therefore, talking about COTU and not an individual any more. I would want to appeal to the Mover that if at all he is able, one way or another, to convince the Government to amend that Act, he should make sure he sneaks in this provision to legitimise strikes. If that is not in place, even him being part of a trade union would not have the teeth to bite.

Finally, I must register my concern about lack of implementation. In this House, we can debate good Motions, talk about them and even pass them, but implementation has been lacking. There are several cases in mind, but I will only mention two. One is the Kenya Broadcasting Corporation Act which was amended and said that it should give uniform airtime to divergent political views. You and I, the House and the whole country know that we are far from achieving that. If we listen to KBC news, eight to ten minutes it is talking about people at the top. Then the rest of the two minutes it is talking about some leaders from a certain district also congratulating the people at the top. I was a bit surprised that when Prof. Saitoti thrashed a Vote of Censure, nobody came up to congratulate him. Instead they were congratulating other people. I would have expected that all these people who normally ran in chorus to congratulate the top man, to congratulate him because he is the second-top man. The Kenya Broadcasting Corporation, even under those circumstances, hardly gives uniform airtime to divergent political views.

Another case where I am concerned about lack of implementation is that about a year ago in this House, we passed a Motion urging the Government to relieve DCs from serving as nominated councillors so that the respective parties could be allowed to nominate councillors in their slots. A year later, this is not the case. In my district there was supposed to be a mayoral election last week. The only person who made sure that the election aborted was an acting DC who had not been sworn, but had to be sworn that very morning to create a tie. I wondered for a moment; the Standing Orders, especially Cap 265, states that the DC's vote as a presiding officer is only to break a tie. I hope and believe that as we pass this Motion, the Government will make sure that it is implemented thereafter.

With those few remarks, I support the Motion.

Mr. Jirongo: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Motion.

What hon. Members have said in regard to this Motion is true. In my view, we cannot blame the Asian community only, or the private sector, when we have failed to look at the mischief we are engaged in as a Government. First of all, if you look at the employment structure of the Government, it clearly shows you how tribal we are. Secondly, that has led people to cherish tribalism. We have had many leaders talking about tribalism in this country, but in the real sense, we cannot talk against tribalism when all citizens can see the fruits of tribalism in securing employment opportunities and the way job opportunities are being distributed in this country.

The civil servants in this country are the least-paid workers and the most disabled. It is high time that when the amendment to the Trade Disputes Act is done, we give consideration to them, so that they can form their trade union and at least have a bargaining power as far as employment opportunities and distribution of jobs within our Government are concerned. These days, it is no longer merit or ability which matters, but the issue of the geography of the land, and who you know. Today, the private sector emulates the Government. The Asian community insults Africans under its employment just as the Government insults the Africans under its own employment.

We have observed very low morale in the Civil Service, and this is simply because people know very well that whoever is currently in charge of any institution in the country does not have the **[Mr. Jirongo]** capacity or the ability to be the head of that institution. Tribalism in this country will never end if the actions of its leaders continue to be based on tribalism. If all leaders keep on thinking about the fruits of tribalism, then we shall continue with that kind of thinking. We will continue thinking that if one of our own is in charge of any institution, our people will benefit. It is high time that we looked at our laws and made sure that the issue of people in power having excessive powers to employ whoever they want is curtailed.

Another issue that we need to look at is the power of the trade unions. The trade union movement in this country has been compromised, as has been said by most of hon. Members, and the reason behind that is the poor purchasing power of our people. It is very easy to compromise somebody who does not have money. My proposal is that it is better we come up with a smaller and efficient Government, with well-paid workers.

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

Mr. Munyasia: Thank you, Mr. Temporary Deputy Speaker, Sir. It is true that there are very many delays in solving disputes involving workers, and I am not quite sure whether those delays are there because of the existing Trade Disputes Act. In some cases, it would appear that it is the Minister for Labour who is more political and is involved in this delay. I have been a trade unionist for some time, although not in the calibre that the hon. Members are now criticising.

At one time, when I was a teacher, I remember that we reached an agreement with the Teachers Service Commission (TSC), under the Teachers Service Remuneration Committee, but the TSC failed to implement it. When this happened, the Minister for Labour decided to refer us to the Industrial Court, instead of ordering that the agreement be implemented. That provision is not there in the Act, but the Minister for Labour acted arbitrarily by referring the matter to the Industrial Court, where there was hardly a dispute. If an agreement has been made, the employer should be made to fulfil it. So, if the Minister intervenes in such a matter and refers it to a longer process, then he is the one causing the delay.

It has not been quite clear in the Trade Disputes Act when the Government may intervene in a dispute between the employee and the employer. I remember that with the existing Trade Disputes Act, in 1990, we did agree, as the Kenya National Union of Teachers (KNUT), with the TSC that we should have a scheme of service for non-graduate teachers. When we gave an ultimatum - which is allowed in the Trade Disputes Act - that we would go on strike on a certain day, if the agreement was not implemented, the Government was furious. But we were following the law. I remember that it was sometime in September, 1990. The Government intervened and warned our leaders. It said that our KNUT officials were working under the influence of foreigners, whom the Government claimed to know. We were forced to go underground for sometime and we had to drop the matter, not because the law did not allow us, but because this Government decided to intervene, and there was no one beyond it to come to our aid.

If an agreement has been made, the Government should not interfere in the matter. There is another matter that came up in 1997, when we were about to face the General Elections. The TSC, under the Teachers Service Remuneration Committee, did agree with the KNUT that they would give teachers a salary increment, but the TSC failed to implement it. The only amendment that we should make is that at such a time, the court must order the implementation of the agreement. The Minister for Labour tried to intervene, and at last the KNUT officials were called to Nakuru, to meet the President, something that is not provided for in the Act. What I am saying is that it does not matter what kind of amendment we will make to the Trade Disputes Act; what is important is the will by this Government to act according to the existing labour laws.

I know that employment policies in this country - if they have not changed - are supposed to be based on merit. If anything goes against that, the Minister for Labour should always be watchful and intervene, to make sure that employment policies are not racist, tribalist *et cetera*. But did this Minister ever change? In the *Sunday Nation* of 4th July, 1999, there was a clear advertisement which read:

"Job opportunities for headmasters and teachers for Nairobi and upcountry boarding schools. Applicants must be Kenya citizens of Asian origin. Please, apply with a detailed CV together with information about the present employer, salary, *et cetera*. All information will be kept confidential".

Look at this! This happened before our very eyes! The Minister for Labour is here! He is supposed to ensure that we should not have racist employment policies. But up to now, I have been waiting to see whether the people concerned ever read newspapers. Do they see what is happening? That is how the casuals are treated here, without the Minister intervening.

When you go to places like hotels run by Asians, you will be shocked. There is a hotel called Almanusura, which is employing people, and there are boys who have worked there for over ten years. They are paid Kshs90 per day. I brought this matter to the Minister, and requested him to intervene. But up to now, nothing has happened. Those boys are not entitled to anything since they are paid on daily basis. But, surely, if somebody has worked for you for over ten years, you should know that you are cheating this particular worker. You are depriving him of his rights? You are not even paying anything towards the National Social Security Fund (NSSF) contribution for him. Yet, the same Asian has employed over 20 waiters. Anyone employing five people and above is supposed to pay the NSSF, to cater for their retirement. But nothing is happening. That is why I am saying that we may have the law, but if those who are supposed to implement the law continue sleeping the way they are, when it is convenient to them, everything will come to almost nothing.

There are workers who have suffered in this country, like those in Webuye in 1997. The employer created false charges against them, that he had noticed that there was a go-slow strike. How did he measure the go-slow? When the workers protested that there was no go-slow, they found the gates of the factory closed the following morning. They were told to apply afresh, with new terms, but not the terms that had been agreed upon.

The Minister and the union leaders were there! What my colleagues have already said here, that many of the union leaders are compromised, is true. Those representing the Plantation and Paper Workers went behind closed doors, talked with the Asian employer and laid off about 400 employees. No one came to their assistance!

Mr. Temporary Deputy Speaker, Sir, if we are going to have the law, those who are supposed to ensure that it is implemented, like the trade union leaders and the Government, must ensure they lead by the law.

Thank you.

The Assistant Minister for Labour (Mr. Ethuro): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion. I think, as the Ministry of Labour, we are in total agreement with this Motion. We are in total agreement because we had already started changing all the laws that affect labour relations in this country in our Motion. The particular Act that is being referred to, the Trade Disputes Act, Cap. 234, of the Laws of Kenya, was enacted in 1965. You can imagine, from that time up to now, how many changes have taken place in our political landscape and in the social-economic circumstances of Kenyans. It is on the basis of these changes that the Ministry set up a task force to review these laws, among many other legislations. The draft document is ready for deliberation by the Labour Advisory Board, and the necessary legislation by the various arms of the Government.

Mr. Temporary Deputy Speaker, Sir, it should be remembered that the Act was enacted to provide the following:-

- (a) Settlement of trade disputes generally.
- (b) Settlement of trade disputes in essential services.
- (c) Establishment of boards of inquiries.
- (a) The institution of the industrial court for purposes of arbitration.
- (c) To regulate strikes and lockouts.
- (d) Registration of collective agreements.
- (e) Reporting and reconciliation.
- (f) Investigation of disputes.

But there was a more fundamental principle involved, that underlines the legal framework of the Act. This is the principle of tripartitism and voluntarism; that, on labour relations, the Ministry is responsible for maintaining the industrial harmony. It is actually the various workers and employers who are supposed to negotiate for their terms. Once those documents are signed, the Ministry enforces them. The whole idea is to ensure that capital and labour work together in harmony, and that there is no need for confrontation, but you can

be able to do more consultations and negotiations that are key elements of industrial relations. It is, therefore, important for Members to realise that there are certain documents that regulate the industrial regulations. The employers and employees need to enter into recognition agreements. They need to come with collective agreements so that the Ministry can actually invoke what has been agreed upon between the employers and the employees. We cannot afford to play favourites; that we are protecting Kenyan employees in particular. We would also want to make sure that the employers operate in an atmosphere that is conducive to generating employment opportunities.

It is in view of these changes that we have been able to draft the document. The document is now ready.

This will lead us to other areas that have been suggested. There are many recommendations that hon. Members have raised. I think the staff from our Ministry are taking note of them, and will take appropriate action. But just as a quick response to some of them, we are very grateful for the eloquent words of the Secretary-General of the Democratic Party (DP), that the Ministry, and the Minister, in particular, with our assistance, is fully involved to ensure that employees are protected. On the specific elements that the Mover has raised on retrenchment, it is only in specific cases that the Ministry has no role. But under the collective agreement, and under the Trade Disputes Agreement, we have a mechanism and provision for the union to agree with the employer. When they fail to agree, the industrial court comes in to arbitrate between the employer and the employees.

I do not want hon. Members to go with misleading notions and impressions that the Ministry has failed to protect Kenyan citizens. I do not want this House to have a misleading conception that the arms of the Government are not working. I think one hon. Member was almost making reference that the Central Organisation of Trade Unions (COTU) is an arm of the Government. What I have proved today is that, out of our own Motion, we are already making the necessary amendments to the Act. It so happens that COTU was also concerned about this particular Act, and brought the Motion. I think we are not in dispute. We are working together in assessing and realising the changing scenario. The Government has taken the necessary steps to ensure that the necessary provisions are enacted in law, so that we can be able to bring the necessary amendments at the right time. After consultation with the other arms of the Government, a Bill will, definitely, be forthcoming, where we will be able to make the necessary arrangements.

Mr. Temporary Deputy Speaker, Sir, concerns have been raised about the quality and competence of labour officers, in particular, and the staff of the Ministry of Labour, in general. I would like to assure this House that labour officers are among the most hard-working Kenyans. They are committed to the cause of the welfare of the workers of this country. However, we must admit that they work under extremely difficult conditions. I think hon. Members know the amount of money allocated to the Ministry of Labour; it is one of the lowest allocations. So, sometimes, it is difficult for labour officers to work because of reduced mobility and communication. But that should not reflect negatively on the level of competence, dedication and commitment of our officers. Labour officers, in particular, have to work extremely hard. In some cases, there are areas like Athi River where we feel we should have labour officers, but we are not able to set up offices there because of financial constraints. This is a fact we are all aware of.

I want to assure this House that the Ministry of Labour and the Government will not abdicate their responsibility. I think it is noteworthy that this Motion was seconded by none other than the Minister of State, Office of the President, hon. Maj. Madoka. This shows the commitment of the Government in terms of bringing the necessary legislation to this House. To the contrary, it is the Opposition that has been trying to bring down this Government. I would like to make reference to the contributions that have been made on the matatu strike. This is a matter of personal commitment. We would have expected hon. Members of this House to actually applaud the Government for the strong will and commitment that it has displayed, in ensuring that this country is not run by matatu touts. The Government wants the country to be maintained and managed in a regulated environment. That is the sole responsibility of the Government. I think it is these kind of unnecessary aberrations that make us sometimes appear not to be performing. This is because hon. Members of this House, instead of supporting an initiative like this one, will go out on Saba Saba Day and call for civil disobedience, and tell Kenyans that there are other ways of removing the KANU Government from power. There is only way: Through the general elections. Between now and the next general election, the Government should be given time to be able to work peacefully and bring the necessary amendments to the law, so that we can actually discharge the responsibilities that Kenyans have vested on us.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I fully support the Motion.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, first of all, I would like to thank the Mover of this Motion, who is also the Secretary-General of COTU. However, I am very bitter because, although he is supposed to be in the forefront in fighting for workers' rights, he only brings matters of workers to this House very late, when they have suffered for a long time.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Maitha! The Motion is not on the character of the Mover.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, I am not referring to him as the hon. Member, but as the Secretary-General of COTU.

The Temporary Deputy Speaker (Mr. Poghisio): Order! You cannot separate that because he is both the Secretary-General of COTU and the Mover of this Motion.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, this Motion is good in the sense that some laws that govern trade unions in this country have been in existence since the colonial days. In most cases, when workers have disputes, we find that our trade unions are very slow to handle them. It is so sad to find that a worker with a dispute will travel from Mombasa to Nairobi because the industrial court is in Nairobi. It is my hope that after the Ministry has adopted this Motion, a court will be established in Mombasa where workers can take their disputes. Currently, the industrial court sits only in Nairobi. People with disputes from other areas have to come to Nairobi. There are individuals who make it impossible for workers to fight for their rights. I have mentioned here that many employers go to State House to give Harambee contributions to the Head of State. When they give such contributions, they make sure that they take photographs with the Head of State. That photograph is pinned on the wall of their offices so that when a trade union official goes to see him over the disputes of the workers, he is shown that photograph as a way of intimidating him. They tell the trade union officials: "Sisi tunamjua mkubwa wenu, nyinyi mtakwenda wapi pengine kulalamika?"

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Maitha, you have to speak in one language.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, I am saying this because that is how they say it in Kiswahili language.

The Temporary Deputy Speaker (Mr. Poghisio): You can still say it in English!

The Assistant Minister for Finance (Mr. Keah): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Maitha to impute improper motives on the Head of State in relation to cases where he is photographed with people who go to see him on goodwill missions? Is it in order that he should impute improper motives with regard to those photographs and claim that they are used to intimidate workers?

The Temporary Deputy Speaker (Mr. Poghisio): I think he is referring to the owners.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, I am referring to the owners of those photographs, not the Head of State. The owners of those photographs are the ones who misuse those photographs. Mr. Keah is also a witness because he has seen people being shown those photographs, so that they can know that those employers are known to the Head of State. Therefore, workers cannot do anything about their disputes. I have a very good example here; the owner of Plastic Products Company has not paid his workers for a period of three months. He stays here in Nairobi and whenever a trade union official visits that office, he is shown a photograph of His Excellency the President. This habit should stop because the workers of this country have suffered a lot under colonial laws that govern trade unions. The COTU and other organisations dealing with workers should make sure that trade disputes are taken very seriously. Sometimes, workers are sent home on compulsory leave, or even dismissed, unlawfully.

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

The Temporary Deputy Speaker (Mr. Poghisio): I will now call upon the Mover to reply.

Mr. Mugalla: Thank you very much, Mr. Temporary Deputy Speaker, Sir. This Motion has been brought to this House on the facts as they appear on the Order Paper. Other issues have been raised by hon. Members, but I can assure you that if the trade union leaders were the main beneficiaries of the suffering of workers, this Motion would not have been brought to this House. We are talking about compromising people. In the Kenyan society, such people are not only in the trade union movement. In fact, we have had our own problems. It is true that every leader in the labour movement is not clean, but we want to remove those things that make him not to be clean so that he can be clean. I would like to give one example about a trade union leader and an employer. The trade union leader was strict because he harassed the employer and wanted to be given some money. Finally, the employer went to the police and reported the matter. After that, the police arrested the labour officer and the trade unionist and charged them in court, but they were later set free. We are not responsible for such a thing. In fact, we condemn corruption, and any trade union official who is not doing his work properly.

As for my friend who has talked about the Central Organisation of Trade Unions (COTU), me and KANU, I want to assure him that leadership of the labour movement in this country is a closed sector. He does not know who is the Chairman of COTU because he is not well informed. The Chairman is a member of the Kenya Democratic Party, while my Treasurer is a member of Mr. Raila's party. Therefore, we are mixed all over. So, he cannot say that COTU is an extension of KANU. However, I am challenging him; unless he has become too old

now, we will have elections in three years' time, and he is free to come and stand as a member of his party, and then we will see how far he will go. This is because the excuse should not be KANU. It should not be assumed that what KANU does is bad. I am a KANU member because I chose it, and one is free to choose a party he or she wants, but this cannot stop me from being involved in other activities. I think this is a very shallow thinking.

Mr. Temporary Deputy Speaker, he also talked about the late Tom Mboya. I can challenge him, that he does not know the late Mboya, but he has read and heard about him. In fact, I was closer to the late Mboya than him. I would like to inform this House that he was one of the most unpopular political leaders. In fact, that is why, at his age, he has been nominated to this House because he did not win any election. I would like to invite him to stand for a seat, while he is still a political leader from his party, in any trade union, especially in his district, and we will see how many votes he will get.

For that, I would like to thank all the hon. Members who have supported this Motion. We have taken criticisms that have been raised here. Some criticisms are genuine, while others are not. We are [Mr. Mugalla] all fighting for the employees, and this Motion was for the purpose of sealing some of the loopholes that people use to sneak in.

I would like to say here that some of the worst employers in this country are hon. Members of Parliament. They do not pay wages to their workers, and if a worker insists on using his trade union, he is sacked. So, let hon. Members of Parliament not deny the fact that they are part and parcel of the employers who ignore labour laws. I am sure that we will accept our blame if we have to make trade unions do the right things.

Therefore, I thank all the hon. Members who have contributed positively and negatively to this Motion.

Thank you very much, and I beg to move.

(Question put and agreed to)

ESTABLISHMENT OF AN EMERGENCY FUND
FOR NORTH EASTERN PROVINCE

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I beg to Move the following Motion:-

THAT, in view of the gross underdevelopment, marginalisation and impoverishment of the people of North Eastern Province; noting that the area has a high agricultural and livestock production potential, sufficient water resources and arable land; noting further that the programmes initiated by the Government since Independence have failed to stimulate economic growth in the region; and aware that inadequate and poor maintenance of infrastructure has not only drastically reduced productivity and induced attendant losses in production, but also discouraged investment; noting that nothing is being done to restore the serviceability of all road sections, resulting in increased user operating costs, escalated costs of rehabilitation and reconstruction; and noting further with concern that health, education and security sectors are crumbling, this House urges the Government:-

- (i) to establish an emergency fund to revamp the roads, health, education and infrastructure;
- (ii) to draw a comprehensive plan to salvage the province from economic collapse; and,
- (iii) to solicit domestic and foreign donor funding for such essential projects as water, livestock production, health and education.

Mr. Temporary Deputy Speaker, Sir, the Motion has been motivated by the pathetic state of neglect in North Eastern Province since Independence. This province was marginalised during the colonial period, and even after the colonial period. The province comprises of 30 per cent of the landmass of this country. The people of North Eastern Province have a right to all essential amenities that other Kenyans have been endowed with.

It is a reality that today, the Kenyan Somalis have their kins in Somalia, just the same way we have so many Maasais in Tanzania, and so many Luos in both Tanzania and Uganda. We also have so many Tesos, Kurias, Bukusus and Pokots across the borders.

The name "Somali" has become a tax for the residents of North Eastern Province, and sometimes it has been given negative connotations. This has affected the performance of the people of North Eastern Province in national development and their participation in national issues. As we move ahead with the constitutional reform process, this is something that needs to be addressed. What has been happening in North Eastern Province has been discrimination along race, religion or tribal lines. The province, during the colonial times, was a special area, because of the harsh climate and poor infrastructure. The *status quo* has been maintained since Independence, and this has affected the residents. Some of these things are externally induced, because whatever the colonialists left

behind has not been addressed. They left a legacy of poor, or almost no infrastructure at all, a legacy of insecurity and discrimination. The best example is what was raised in the House today over the screening cards. These issues need to be addressed once and for all.

Mr. Temporary Deputy Speaker, Sir, I will touch on the issues of insecurity, roads and education. The KANU manifesto of 1997 said: "Kenya has probably the most impressive road network in East Africa." This is true. But how many of these impressive roads are found in North Eastern Province? None. This has been an issue during the campaigns, and we still want it to be an issue, not only for KANU, but also for all the parties that are interested in improving the lives and economic activities of all Kenyans, regardless of where they come from.

Mr. Temporary Deputy Speaker, Sir, the poor infrastructure in this province has exacerbated insecurity to the extent that today, the security agents cannot move freely to areas which have been affected by the menace of cattle rustling, banditry, malaria outbreak and cross-border incursions by foreigners; for example, what happened recently in Amuma. For all these issues to be adequately addressed, a good infrastructure is necessary. It is my prayer that today, this House will resolve for once, to address the unique and pertinent issues of North Eastern Province.

Mr. Temporary Deputy Speaker, Sir, the road network development master plan study and the Roads 2000 Strategy which we talk about, have been expressed only in theory. We have not seen any action. How many of these strategies are tailor-made for the people of North Eastern Province? Are we somewhere in the programme? These are things that, again, need to be addressed.

On the issue of air transport, I do not want to mention what has happened recently. One of the districts in North Eastern Province which is completely cut off by air and road is Mandera. One cannot travel by air because the airstrip there is completely unusable as it has very many potholes. The roads are worse. How do we expect the people of Mandera to get essential services like drugs? The people of Mandera have, instead, resorted to getting these essential facilities from neighbouring countries, which have been hit by civil wars. Today, it is a reality that the people of Mandera almost rely entirely, for all their essential needs, on Somalia, which has not had a semblance of a government for the last few years, and on Ethiopia, which is also engaged in war. These bad encounters have almost made the people of North Eastern Province believe that they are second-class citizens. This is the impression we need to completely erase from the psyche of the people of Northern Kenya. These people want to see themselves as part and parcel of this beautiful nation. Sometimes, when we are down there at home, we talk of Kenya, then people ask: "Where is this Kenya?" They would then say that Kenya is anywhere excluding North Eastern Province. Why? It is because of the non-existence of these amenities. It is high time we gave serious consideration to the affairs of the disadvantaged people of North Eastern Province.

Mr. Temporary Deputy Speaker, Sir, on the issue of health, Wajir District has a dilapidated district hospital, which is a relic of the Italian labourers of 1945. If you go to Wajir District Hospital today, you will realise that it is not even in the category of some of the small dispensaries found in other parts of Kenya. This is a shame to Kenyans, the residents of Wajir and to the entire province. The Garissa Provincial General Hospital, which is supposed to be a referral hospital for the entire province, is almost not functioning because of lack of staff, medicine and other essential facilities. As a result, every year, there are malaria, cholera and dysentery outbreaks. As we talk today, I lose one or two people every day in my constituency as a result of dysentery. If the facilities were there, then these people would not have lost their lives. During the *El Nino* rains, within three months, we lost over 3,000 people as a result of *El Nino*-induced diseases. The same continues today. In the livestock sector, we have lost almost the entire livestock population as a result of *El Nino*-induced diseases. The camel population has almost been wiped out, yet this is the mainstay of the economy of the people. This is an area that needs to be looked into.

Mr. Temporary Deputy Speaker, Sir, Wajir District Hospital has just one doctor. Garissa Provincial General Hospital, which is supposed to be a referral hospital for the province, has just one doctor. Mandera District Hospital has not had a doctor for the last four months. They just got one last week. This is because the doctors have been made to believe that this is a problematic area, and they would face a lot of problems if they went there. This misconception is what we need to remove from the minds of Kenyans.

Mr. Temporary Deputy Speaker, Sir, on the education sector, many primary schools have greatly been improved in the country, but nothing has been done to North Eastern Province. The schools do not have teachers and they lack essential facilities to the extent that today, the number of students that North Eastern Province sends to the five national universities is less than those from one secondary school in Central Province. This is a trend that we need to check, because education is the cornerstone of the development of any nation, without which the nation will continue to lag behind. There is, therefore, an urgent, if not an emergency, need to improve the quality and standards of education in North Eastern Province, to bring it at par with the rest of the country. This can only be done if we improve the educational infrastructure.

Mr. Temporary Deputy Speaker, Sir, we are talking about Kenya being industrialised by the year 2020. How are we going to industrialise when, today, there is apathy to education among the youth of this country? This apathy has been brought about because those who have completed school do not get any jobs. Education in our area has always been seen from the pecuniary point of view; the end result. But, now, I am afraid we are trying to encourage an educated clique of bandits, and that is going to be the most dangerous problem we shall face as a nation. Therefore, the issue of education is of paramount importance to the people of North Eastern [Mr. Keynan] Province. The issue of special education has been given attention in this country. But I am saddened to report that in North Eastern Province, the promotion and development programmes for children with various disabilities has not been encouraging on the side of the Government. This has reached a point where those who are not physically impaired are no different from the disabled. This is because, without education, you are as good as a physically impaired person. We were told that the Government has put up 252 programmes for basic special education, with a total enrolment of 10,370 in 105 special primary schools. This is in addition to the estimated 11,630 disabled children integrated in regular schools.

North Eastern Province is not benefiting at all from all these programmes and, therefore, there is need for an emergency programme. To be a disabled person there, with no education or attention at all, is tantamount to being sentenced to death. Since you are in despair; impaired; you have nothing; you want to eat, drink and be clothed; you do not have a job and you are not exposed, how do you survive? You just sit, wait and let nature take its course. After nature takes its course, you die. This is a trend that we need to check. On the teaching sector, right now, we are talking about the laying off of over 60,000 teachers. In North Eastern Province the ratio of teachers to pupils is beyond what you would expect in any other secondary school, to the extent that you will find there are so many students who may have never been taught by a science teacher until they sit for their final examination. How do you expect the same children to compete with children who have been exposed to science even in nursery school? I do not even have to mention adult education because if the youngsters are not being educated, then even adult education in my area is almost non-existent.

What I am saying is that there is need to study thoroughly the pathetic situation of North Eastern Province. We have been relying on the livestock sector. This area has drastically over the years, been neglected by the Government. We used to have the Livestock Marketing Division (LMD) which used to be part and parcel of the Ministry of Agriculture, but it was completely removed. There used to be KMC, but it has been deliberately killed, to the extent that today, we have no place to market our livestock. What do we do? Our people are not used to destocking. Where do they take their livestock? I can tell you today that the livestock farmers from the entire Northern Kenya take their livestock for marketing as far as Hargeisa and Mogadishu in Somaliland. These countries have no governments, but they are able to look for markets in the Middle East. Since we have very good diplomatic relations with some of these friendly Middle East countries, it is high time the Government looked for markets for livestock from North Eastern Province.

The Government should also revive KMC. Today, we have the Ministry of Agriculture. At one time, it used to be called the Ministry of Agriculture and Livestock Development. You can see now that anything that has to do with livestock has been completely removed, year after year, because somebody somewhere feels that livestock is of no importance to the national economy of this nation. I am glad that, recently, when hon. Sunkuli addressed officials of Arid Land Resource Management, he talked about the livestock sector actually having contributed over Kshs3 billion in the last four years. This is an area which, if thoroughly addressed, can overtake some of the main economic sectors. Marshall plans have always been done. North Eastern Province is just coming out from an era of disaster. Whenever victorious countries are through with their wars, they sit down with the defeated forces or countries and plan for the future, just like what happened in 1945 after the Second World War, when the then Secretary of State in the US Government came up with a Marshall Plan. That really assisted all the European countries to the extent that today, they are almost at par with the rest of the developed world. We need the same programme, and I quote what he said: "The central government being the victor, should come now to the aid of the vanquished, to help in restoring what has been disrupted by exploiting all the productive capacity." That was in 1945. Can we not do the same today? I feel that we can.

This is what we are asking for. George Marshall proposed this in his final plan at Harvard University in June 1947 and he said:

"Europe's requirements for the next three or four years of foreign food and other essential products principally from America are so much greater than her present ability to pay. In order to do that, she must have substantial additional health or face economic, social and political deterioration of the very grave character".

This is one thing that we are talking about. We should also address issues like neglect, marginalisation and discrimination. We are talking about insecurity. We are having a lot of arms from Somalia. We are sitting on a

time bomb. If we do not address the needs of those people, they will come up to Nairobi to look for something to eat. I am afraid that we will not be comfortable in the posh houses that we sleep in because there will be lawlessness, thuggery and all sorts of crimes. That might even lead to a social upheaval or political [Mr. Keynan] turmoil. You never know, because it starts from somewhere.

That is a province that has over 1 million people who need to eat. Now that the countries across the border do not have a government, then what other choice do they have? That is an issue that I feel should be thoroughly addressed. I have talked about the livestock sector. We have never benefited. We were told that there are imported semen and embryos in other parts of Kenya to improve the quality of livestock breeds. Up to today I have never seen even one single project in North Eastern Province. How do you expect the livestock farmers in North Eastern Province to improve on the quality of the livestock they breed? These utilities are not known there, and here, we are talking about a national programme that is tailored to assist the livestock farmers. We need to see an element of the performance of this key Ministry of Agriculture in North Eastern Province. These programmes have actually not done much, and we have never seen the dairy growth that has been talked about in other parts of Kenya. Why do we not have just a simple research project that can really assist the livestock farmers in this area?

On the issue of electricity, as far as we are concerned, Mandera has one generator and Garissa has one generator at the district headquarters. Wajir has also got one. In fact, at this stage, Tana River District does not have even one generator at the district headquarters. This is a shame. In other areas, we are talking about rural electrification but for us, we are talking about electrification of the district headquarters, which serves as the headquarters of key departments of the Government. All these things combined, have given us an impression that--- Are we really saying that we are part and parcel of a nation which, maybe, has second thoughts about our very existence?

We have talked about the census for some time. You must have heard about the Ajuran, the Degodias and so forth. Some of these names do not even exist. Some of these clans are not even known. We feel it is still the continuation of divide and rule which has been there. It is not really serving the interests of the people of North Eastern Province at all. Therefore, what we need, as an urgent measure, is for the Government to work out a plan to establish an emergency fund to revamp the roads, health and education. This can be done with the help of the donors. It exists. In the US, we have the North American Indigenous People Act which covers the needs of the red Indians and the Eskimos.

Mr. Temporary Deputy Speaker, Sir, in Australia we have an act which caters for the interests of the Aborigines.

With those remarks, I beg to move.

Mr. Shidiye: Mr. Temporary Deputy Speaker, Sir, I stand to second this Motion.

Any person with a conscience in this House will support this Motion. The plight of people in northern Kenya is well known. Historically, during the colonial time, marginalisation was practised. The successive African Governments have continued with the same policy. We have what we call "the Hamitic Myth". The colonialist realised that the Maasais, Somalis and the Rendiles were people with very brilliant minds. On the basis of that, they denied them education. Once these people were denied education, it meant that they could not compete and be at par with the rest of Kenya. If you look around, the same spirit is being entrenched. We have two societies in this country; an affluent society, which is rich and fat, and another society which is poor and dying of hunger and starvation. We are told that we are in the same country. We cannot be in the same country when some people are dying of hunger while, at the same time, others are dying as a result of obesity.

Mr. Temporary Deputy Speaker, Sir, there are two societies in this country which you cannot comprehend. The Turkanas, Samburus and Maasais are all wielding rungas, guarding people's houses. What remains of the Somali is that, the best job he can get in this City is that of a watchman. We are denied the right to education, infrastructural facilities and even existence. This is the core issue in this House that must be addressed, if we have to be equal in this country.

Mr. Temporary Deputy Speaker, Sir, for example, during the colonial time, we had the Livestock Marketing Division, which used to purchase livestock three times a year. Then, during Kenyatta's Government, they were purchasing two times a year. Finally, when Moi's Government came in, they were purchasing only once and, eventually, it collapsed. If you look at a big institution like the Kenya Meat Commission, it has become a monument; a caricature which does not exist. Why should you use Kshs6 billion to construct such a facility, close the door and then tell the people that they cannot sell their livestock? The land has been grabbed; there is nothing remaining of KMC, and we are told it is under receivership. If the Kenya Government can bail out Kenya Airways, why not KMC? We voted Kshs6 billion of taxpayers' money here which was given to the Kenya Airways on a clean plate, and today, we are told that it is making profits. Look at all the other sectors; coffee, KCC and others have been bailed out. Why are we not being bailed out? Is there anything we are getting out of this

Government? It is really hurting us! We are being told that we belong to KANU, and we are in the Government; therefore, we have to deliver. Five years down the road, what am I going to tell my people in Lagdera, for heaven's sake? What am I going to tell them when there is no infrastructure; no single project, not even an industry? These are the two societies I am talking about in this country. What can help us is an affirmative action. Money must be voted from the Consolidated Fund, and it must be used to improve education, infrastructure and the living conditions of those people in northern Kenya.

Mr. Temporary Deputy Speaker, Sir, for the last three years, we have not received rain in northern Kenya. Since the *El Nino*-induced rains, there has been no drop of rain. We have travelled to Wajir and Mandera, and animals are dying in large numbers. If the Government does not want to hear, we are sending an SOS to God and to the international community, so that they can help our people.

Mr. Temporary Deputy Speaker, Sir, we are a bitter lot in this country. There are people in the Opposition who are benefiting from this Government and we are told that they are co-operating.

(Applause)

These people have the best infrastructure and yet, they are in the Opposition. They have good roads, the best agricultural network; name it! They are benefiting while people in the Government are the ones who are marginalised. We are underdeveloped and this is what is hurting us most. Whereas hon. Raila Odinga is co-operating, he is achieving more from this Government than people in KANU.

An hon. Member: The politically correct people!

Mr. Shidiye: If they are politically correct people, I do not know. We are told that they are co-operating and they are stabbing us in the back here in this House; and we are unable to work.

An hon. Member: Toba!

Mr. Shidiye: Mr. Temporary Deputy Speaker, Sir, those are things that are really hurting people in northern Kenya.

On the issue of security, we have to go back to the drawing board and assess where we went wrong. Something must be amiss in this country. Thirty-six years after Independence, no person can move from point A to point B. You cannot travel to any constituency in northern Kenya.

Last weekend, we had a function in Wajir and we had to use air means. No Minister can dare drive on that road. People have never seen a Minister with a flag, and they do not know that a Minister has a flag because they have never seen a Minister on that road.

An hon. Member: Where is Maalim?

An hon. Member: Mr. Maalim does not go there!

Mr. Shidiye: Mr. Temporary Deputy Speaker, Sir, if a Minister is supposed to travel by that road, he must have an escort of five vehicles with a minimum of 100 askaris. Where is the giant Kenya Military, the Administration Police and other security personnel? Those are the things that are hurting us most. If we had security, we could do our business. Somalis have an ingenuity for business; they can do very well in business. Even if we are denied infrastructure, open up the road and let us pass. However bad it is, we can still travel by road. Even if matatus strike, we do not know about matatus. We can only manage to use lorries and we do not care about the strike which people were talking about. The most fundamental thing is, most Kenyans, especially in northern Kenya, have been made poor as a result of cattle rustling. Originally, cattle rustling was a good thing because it was replenishing the stock one lost, but nowadays, people have acquired sophisticated weapons. They kill people and take their animals *en mass*. Therefore, there is nothing like replenishing the cattle one lost.

Mr. Temporary Deputy Speaker, Sir, the whole of Somalia has collapsed, and we are neighbouring the Republic of Somalia. In the Machiavellian politics, you do not allow your neighbours to be controlled by other powers. You do not allow Somalia to be controlled by Ethiopians, Egyptians, Libyans and Eritreans. If you thought that Somalia was a poor man's country, you were wrong. Today, any person who harbours malice against any other country is pitching his tent in Somalia, with the warlords there. We are told that Osama Bin Laden might be there too.

Recently, when Somali militiamen moved in and took our vehicles and went with the arms, you could understand the situation. We share a border of 3,000 miles with the neighbouring Somalia. If there is a problem in Somalia, the only peaceful place they can go to is Kenya. Ethiopia and Eritrea are now fighting, and they are doing it inside Somalia. The repercussion of this is that, these people will move out, invade and live in Kenya. So, if we are going to be very serious, for heaven's sake, we want this issue of insecurity to be addressed. Why is it that we cannot have a Somali District Commissioner (DC) or Provincial Commissioner (PC) in North Eastern

Kenya? In Nyanza, we have a Luo PC, and he is able to maintain law and order. Why do we not have a PC in Garissa who is a Somali, and who understands our problems? Let us have a Somali DC in Wajir and Mandera. These people understand. This idea of clanism is bullshit; it does not make sense!

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Shidiye! Parliamentary order and decorum must be observed. Could you withdraw that word?

Mr. Shidiye: Mr. Temporary Deputy Speaker, Sir, I withdraw.

When there is a problem in the northern Kenya, we are told that clan "a" is fighting clan "b". We have a covenant with this Government, that they are going to provide us with security. So, if you told me that clan "a" is going to attack clan "b", or a Pokot is going to attack a Turkana, that is not the covenant. Security is in the hands of the State. It is in the hands of the Government of Kenya. That is why, if you told me that clan "a" or "b" is going to attack another one, that would not make sense to me.

Mr. Temporary Deputy Speaker, Sir, we want a Marshall Plan and be assisted like other Kenyans. That is the signal we are sending to this House.

I beg to support.

(Question proposed)

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I wish to reply on behalf of the Government. I would like to say that I have discussed with the Mover of this Motion, and we feel that it is appropriate that in order to have a meaning, this Motion needs to be amended.

Mr. Temporary Deputy Speaker, Sir, I, therefore, wish to propose that the Motion be amended as follows: First, by deleting the words "of" and "has a" appearing after the words "people and area" in the second line, and substituting in places thereof, the words "in the ASAL districts, especially" and the word "have". Secondly, by deleting the word "province" appearing after the words "salvage the" in sub-paragraph two, and substituting in place thereof, the words "ASAL districts". The whole Motion will read as follows:-

THAT, in view of the gross underdevelopment, marginalization and impoverishment of the people in the ASAL districts, especially the North Eastern Province; noting that the area has a high agricultural and livestock production potential, sufficient water resources and arable land; noting further that the programmes initiated by the Government since Independence have failed to stimulate economic growth in the region; and aware that inadequate and poor maintenance of infrastructure has not only drastically reduced productivity and induced attendant losses in production, but also discouraged investment; noting that nothing is being done to restore the serviceability of all the road sections, resulting in increased user operating costs, escalated costs of rehabilitation and reconstruction; and noting further with concern that health, education and security sectors are crumbling, this House urges the Government:-

- (i) to establish an emergency fund to revamp the roads, health and education infrastructures;
- (ii) to draw a comprehensive plan to salvage the ASAL districts from economic collapse; and,
- (iii) to solicit for domestic and foreign donor funding for such essential projects as water, livestock production, health and education.

Mr. Temporary Deputy Speaker, Sir, the effect of this amendment is simply to enlarge the areas covered by this Motion, because the problems suffered by North Eastern Province are not necessarily peculiar to that area. The Mover and, indeed, his Secunder have given what I consider a grim, but sometimes realistic picture of the situation in areas that have not been focused as special areas in the past. It is true that if you visited the ASAL areas, what you would see is an area where people live in extreme difficulty. When the Office of the Vice-President and Ministry of Planning and National Development did a survey that led to the formulation of the Poverty Eradication Plan, it was discovered that, although the highest number of poor people in Kenya live in non-ASAL areas, the highest percentage of the poor live in the ASAL areas. In fact, nearly 95 per cent of the people in ASAL areas live below the poverty line. I think it is pertinent that a special plan be put in place to ensure that people in such difficult areas are helped.

Mr. Temporary Deputy Speaker, Sir, I however, wish to note that in the Government Budget, the total road maintenance budget for North Eastern Province for the last two years has been about Kshs529,146,893. Almost Kshs1 billion has been spent to try and maintain the roads in the North Eastern Province.

Mr. Shaaban: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister aware that Kshs300 million that was allocated for road maintenance in North Eastern Province and the arid lands has actually been misappropriated and no work has been done on the ground? Where has

[Mr. Shaaban]

Kshs300 million been spent? Is he aware that North Eastern Province is the poorest?

The Temporary Deputy Speaker (Mr. Poghiso): You rose on a point of order, but you are giving information. Proceed, Minister!

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, all the same, the hon. Member has said what I was going to say; that, unfortunately, we have got to request our civil servants and engineers to ensure that whenever money is allocated, it is used properly. It is not that the Government has not made efforts; the Government has continued to allocate resources to those areas for maintenance of roads. We must ensure that these funds are properly used.

Mr. Temporary Deputy Speaker, Sir, these are the effects of leaving most of our country underdeveloped in the early days of our Independence. There are some areas that did not see a tarmac road until 1980. The fact that certain areas of Kenya moved faster than others, is eventually what created the situation that we are in now. I think it is important that hon. Members appreciate this fact, so that they can accelerate development in the areas that are now ASAL districts.

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has said that they are going to request civil servants to ensure that money is properly spent. Is the Government going to request or order civil servants and prosecute those who steal public money? The Government should not request, but order and ensure that civil servants, indeed, do what they are supposed to do and not to steal money belonging to taxpayers!

(Applause)

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, I could not put it exactly in those words, but I thank hon. Gatabaki for saying it for me.

Mr. Temporary Deputy Speaker, Sir, North Eastern Province is currently served by six hospitals, nine health centres, 51 health sub-centres and several dispensaries. Today, North Eastern Province has a total of 1,498 beds. It is also served by 736 medical and non-medical staff. This might appear to be a huge number, but for a province of such a vast terrain as North Eastern, a lot needs to be done. The Government is going to look into the possibility of ensuring that within its policy of cutting down the Civil Service, that health personnel are not affected by retrenchment. The situation in most of those Arid and Semi-Lands (ASAL) areas is such that the health facilities are far between; they are not next to one another. It is important that the health sector be focused on. The Department of Development Co-ordination in the Office of the President has advised that in order for poverty to be tackled, the area of health is paramount, just like water. So, a lot needs to be done to ensure that the health of the people is catered for.

Mr. Temporary Deputy Speaker, Sir, the hon. Member has touched on water. Right now, a substantial number of dams, ponds and boreholes, which are the water-points in the North Eastern Province ASAL districts, have been built, although a lot of them have also silted. This is being addressed, and we wish to continue addressing the question of siltation of dams.

Mr. Maundu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I got the impression that the Minister was trying to move an amendment, but it would appear he is responding to the Mover's Motion rather than responding to an amendment! Where are we?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Temporary Deputy Speaker, Sir, the hon. Member, who is an old Member of this House, knows that, when you are proposing an amendment, you do not get another time to reply; you use the same time to do it.

Mr. Temporary Deputy Speaker, Sir, under the *El Nino* Programme, North Eastern Province has been given a substantial amount of money to ensure that the dams that were silted during the *El Nino* phenomenon are desilted, so that the waterpoints become usable again. There have been a number of boreholes which have been drilled in the ASAL areas. About 100 boreholes in the ASAL districts have been done through the help of the Egyptian Government.

Mr. Temporary Deputy Speaker, Sir, the hon. Shidiye has raised an important issue of the Kenya Meat Commission (KMC). It is true that, whereas we are trying to address the social aspects of poverty, especially in ASAL areas, this is not going to be complete if we do not address the economic issue. We do recognise in Government that no matter how much relief we give to people in ASAL districts, it would not be sufficient until we can enable them to sell what they have as their economic resource. The people in ASAL districts have cattle as their economic resource.

I do appreciate, coming from a pastoralist area, the re-opening of the Kenya Meat Commission (KMC).

The re-opening of the KMC is very important. As we stand, the Government has, in fact, put in place the process towards the re-opening of the KMC, so that people from pastoralist areas get a market for their animals. This will stimulate better production of animals and ensure that these animals are marketed.

Mr. Temporary Deputy Speaker, Sir, the hon. Member did not, of course, need to say that we can salvage the Kenya Airways and the National Bank and not salvage the animal industry. We are in the process of salvaging the animal industry. The Ministry of Agriculture and the Office of the President, in conjunction with the Treasury, are currently holding discussions on this issue to ensure that the KMC is opened up. The whole issue, we hope, will come to fruition very soon. The KMC in Athi River has actually been revamped. What now needs to be done are a few operational things that the Government is discussing.

Mr. Temporary Deputy Speaker, Sir, this will also bring to point, the fact that many local authorities, especially in Arid and Semi-Arid Lands (ASAL) districts, need to discuss among themselves, the possibility of establishing abattoirs so that the animals can be slaughtered when they are still valuable, within their own areas. I realise that the Member for Turkana is fully in agreement with me, but it is only because birds of the same feather flock together.

Mr. Temporary Deputy Speaker, Sir, we do realise that the hon. Mover has requested that donor funds be solicited, and that we will do. I also urge hon. Members, and people who have access to donor funds, to actually direct these donor funds to ASAL areas. This is an issue that we have said repeatedly that in fact, donors have tended to concentrate in already developed areas. Donors have tended to fund the areas that are already over-funded. There are some areas in this country that are not just deserts because they have no rain, but in fact, they are deserts because they do not have any donors going there. It is important that all these things, like funds either related to gender sensitivity, water resources or development, be channelled to the North Eastern Province and other ASAL areas not just for purposes of relief but also for purposes of development.

Mr. Temporary Deputy Speaker, Sir, I think the fact that most of the donor funds are coming through NGOs places a bigger responsibility not on the Government, but on the NGOs themselves. It is crucial that the NGOs start re-defining and re-reading the map of Kenya. This is because the map of Kenya that many NGOs have, does not include the ASAL areas. However, if the donors can receive the latest map of Kenya that has every part of Kenya; that is, the four corners in it, then they can redistribute their efforts so that they can supplement the efforts of this country.

Mr. Temporary Deputy Speaker, Sir, we are addressing the security problems that are in North Eastern Province, but the hon. Member who seconded this Motion must also realise that Kenya, no matter how safe we try to keep it, is a victim of the excess number of refugees that have come from the fallen Somali state, and have continued to flock in here from other countries, such as Sudan and Ethiopia. We have ensured that with those problems in our hands, we are still able to deal with our security problems, so that the hon. Members can eventually say that North Eastern Province and other areas in the Northern Frontier of Kenya do have total security.

Mr. Temporary Deputy Speaker, Sir, I wish to move and request the hon. Deputy Leader of Government Business to second the amendment.

The Minister for Agriculture (Mr. Mudavadi): Mr. Temporary Deputy Speaker, Sir, I wish to take just a couple of minutes to second the amendment to this Motion because, firstly, the amendment does not negate the spirit of the original Motion. Secondly, the amendment helps in emphasising the fact that the programme that we would want to put in place for the North Eastern Province should also cover all districts with similar environmental problems in the country. That is why the introduction of programmes for arid and semi-arid land (ASAL) districts in the whole country is most welcome while debating this particular Motion. Thirdly, I want to just emphasise that if at all we have to deal with the insecurity problem in those areas, and particularly in the North Eastern Province, we have to address the economic problems being experienced in those areas. Even if we send soldiers and policemen to those areas we will never succeed in dealing with insecurity unless we have dealt very seriously with the economic problems.

It may be of interest to hon. Members to note that if one was to take the statistics of the people who have died in the North Eastern Province, as an example, and in other areas such as parts of Marsabit District, through banditry attacks, the numbers would be much higher than the number of those people who died during the clashes that occurred in this country. This may be very surprising, but if you go into the statistics, you will find that bandits have killed more people in those areas than those people who died as a result of the tribal clashes that occurred in the country some time back.

A glimpse at the statistics will enable hon. Members to know the magnitude of the problem being faced by the people in those particular areas. To address the problem, we have to open up irrigation and the roads, to ensure that the people of those areas, who are entitled to every benefit from this country, have serious economic

programmes going on. Otherwise, we shall never resolve the insecurity problem. I know that many other hon. Members want to contribute to the Motion. So, I think it is only proper that we dispose of the amendment very quickly, to enable them to do so [**The Minister for Agriculture**] substantively to the amended Motion.

With those few remarks, I second the amendment.

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

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the Motion. I will speak in support of the Motion because I think it is a very important one.

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Kihoro, note that you are speaking on the proposed amendment.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I thought that we had already agreed to the amendment. I am speaking on the amended Motion.

The Temporary Deputy Speaker (Mr. Poghiso): No, the Motion has not yet been amended.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, I am speaking in support of the amendment.

The Temporary Deputy Speaker (Mr. Poghiso): Order! Mr. Kihoro, I have only proposed the question of the first part of the amendment. We have not yet amended the Motion. So, I have asked those hon. Members who are ready to speak on the proposed amendment to do so. However, if the proposed amendment is agreeable to hon. Members, I will put the question.

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

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

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

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. You should now tell the House that the "Motion now reads as follows---"

The Temporary Deputy Speaker (Mr. Poghiso): Order! Order! Mr. Sambu, actually, you have jumped the gun.

Hon. Members, I will now propose the question of the amended Motion.

(Question of the amended Motion proposed)

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir. I support the amended Motion and I accept that when we speak about North Eastern Province, we are speaking about an area that is almost half the size of Kenya. Until we address the problems of North Eastern Province, especially the security situation, there is no way we are going to have 50 per cent of Kenya stable.

I agree with the sentiments by the Minister for Agriculture, hon. Mudavadi, and also with the hon. Shidiye. In fact, hon. Shidiye "punched" with the capacity of a heavy weight. He must be encouraged, and he is also welcome on this side of the House. It is very important that we are speaking about an area that has got a high agricultural potential. We are speaking about an area that has got traditionally a very big output in livestock and, potentially, could be a breadbasket in terms of production of dates, which I know many Kenyans have not seen in their lives. It could also be potentially productive in maize, barley and cowpeas. It is important that we try as much as possible to put resources in North Eastern Province and also other related parts in the Eastern Province, so that we can increase the agricultural production of this country.

Mr. Temporary Deputy Speaker, Sir, there is a ready market for all these products that could come from

North Eastern Province. It is also true that until we look at what has stood undone in North Eastern Province, and increase its economic potential, there is no way we are going to deal with the insecurity situation that has been there since the days of the Mad Mullah in the 19th century up to the present. There is a ready market if we increase agricultural production in North Eastern Province. There is ready market for livestock and dates in countries across the Red Sea, namely, Saudi Arabia, Kuwait and Dubai. It is important that when we go to Dubai for shopping, we should also take something that is Kenyan, so that trade will be both ways, as opposed to what it is today; it is, in fact, one-way.

The present situation in North Eastern Province discourages investment. I am sure there is not a single industry in North Eastern Province. There is no infrastructure that can support an investor, whether in Garissa, Wajir or Mandera. We have been told that one whole district in this country has been cut off for some time; that is Mandera District. It is important that this country be opened up, and we make sure that there is sufficient movement of people and goods, and that sufficient trade is going on. That is the only sure way of dealing with the insecurity situation that everybody is aware of in North Eastern Province.

Banditry has become a way of life in the North Eastern Province (NEP). There are underlying circumstances that make that possible; like the

[Mr. Kihoro]

instability in the population of the NEP. There are very many good people there; about 98 per cent of them are good people, and they want to lead a decent life. But that is not possible as long as there is no investment in the NEP, and good roads to allow for faster transport. I know of a small part of tarmac on Rhamu-Mandera Road, but that covers only a few kilometres. So, it is important that we develop a good road transport system in the region. Once upon a time, there used to be a dream of constructing the Addis Ababa-Nairobi Highway, which would enable people to only take six hours from Kenya to Ethiopia, but apparently that dream died with former President Jomo Kenyatta and Emperor Haile Sellasie. Because population has been increasing in this country, and more so in the NEP, it is important that we revisit the dream of having that highway, which will be very important, in terms of the movement of people and the enhancement of security in the NEP.

Health institutions in that region are dilapidated. Looking around at the state of health institutions in other parts of the country, I find that they are dilapidated. I know that it is even worse in the NEP, which has been isolated for such a long time.

Enhancement of education in the region is also very important in order to open it up. There used to be a boarding scheme, a long time ago, where children of semi-nomadic parents would be put in the boarding schools. The Government must enhance that project so that children who cannot go to schools in the NEP would be able to do so by enrolling in a boarding school for three months and get their education. They can stay with their parents for one month when schools close, and then go back. Unless we continue to improve the education availability in the NEP, it will be difficult to help that region. Those who will be educated under such a scheme will be the investors tomorrow, and will establish an industry in Garissa in Wajir. It is important to enhance educational opportunities in the NEP and also to make sure that other Kenyans, many of who are jobless, can work in the NEP and thus enhance the educational levels there.

Water resources are available in the NEP. We know that Lake Turkana, which is 3,500 feet (??), is good enough to irrigate some parts of the NEP. The relief landscape enables irrigation to be undertaken at very little cost in that region. There is no way that project cannot be undertaken. We cannot leave it to God to help us. Unless we do something about it, there is no way we will change the lifestyle of the people of the NEP. Other countries have done it. A country like Israel has been able to convert a semi-arid area into arable land. That can be done very easily as I have indicated. Even gravity itself is on our side in terms of where the water and the irrigable land is. Libya has also done it. Maybe many people have previously taken a punch at Libya, but the point is that Libyans have been able to tap water resources in the desert and convert the desert land into arable land. There is a lesson to learn from them. Again, Libya is a Muslim country, and the NEP people are Muslims. It is important that we take the vision of Libyans and take it to NEP. Countries like Egypt, Ghana and Nigeria, which has the Kaji Dams, have done it.

I wonder what has happened to the irrigation projects in this country.

(Applause)

There used to be the Ahero Irrigation Project in Rift Valley, which went to waste. There was the Bura Irrigation Project. I can see hon. M.M. Galgalo is nodding in acceptance. That is something that we need to revisit in this country and do it more. How could it be done during the colonial period, and it is no longer possible today? Mwea Rice Irrigation Scheme has been a very topical area in the last six 18 months. It is important that we also

learn a lesson from Mwea Irrigation Scheme and take other experiences from Bura, Bekela and North Eastern Province. Water from the Ewaso-Nyiro River that flows from the Aberdare Mountains disappears into the Lorian Swamp as soon as it gets into the North Eastern Province. It is possible to tap the water from this river that disappears into a swamp, travels underground and ends up in the Indian Ocean. It is important to use our intelligence and our capacity to think. The one kilogramme of brain that we have should be employed to reclaim those parts of North Eastern Province, to make sure that we change the lifestyles of the people living there. They are part of this country and we must help them.

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

Mr. Sambu: Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipa dakika nne ili niseme machache. Nikihurumia wenzangu---

An hon. Member: Toboa yote!

Mr. Sambu: Nitasema yote sasa! Nawahurumia watu wangu kutoka sehemu kame kama Lamu, Kitui na Pokot, mahali ambapo Bw. Naibu Spika wa Muda anatoka! Kwanza, kusikia kutoka kwa Waziri kwamba sehemu yote ya Mkoa wa Kaskazini Mashariki, ambayo ni nusu ya Kenya, ina hospitali sita, ni ajabu sana! Siyo? Ukisikia watu wanajiingiza kwa mambo yasiofaa, siyo makosa yao!

An hon. Member: Mambo gani?

Mr. Sambu: Si unasikia mkienda huko lazima msindikizwe na polisi na jeshi? Ni mambo gani haya? Ajabu ni kwamba wakati wa kuomba kura, watu wanaambiwa makubwa. Tunawaeleza [**Mr. Sambu**] watu kwamba miradi ya kunyunyizia maji mashamba itatekelezwa na barabara zitatengenezwa, lakini tukiingia Bungeni, kwisha! Tunatafuta Mhindi mwenzetu na kumpa kandarasi. Hapa Museum Hill, barabara ya mita 200 ilitengenezwa, na Mhindi akalipwa Kshs225 milioni! Mimi nilijiuliza hiyo barabara ni ya dhahabu au ni ya aina gani? Tutapitisha Hoja hii kwa sababu tunaiunga mkono pamoja na wenzangu. Lakini hata tukiipitisha, ni nani ataitekeleza? Wasomali na Wakamba walipiga kura na ikatosha! Kazi yao ni kupiga kura tu! Tosha! Tukishaketi kwa viti hapa Bungeni, watafanya nini? Mpaka miaka mitano iishe ndio tutawandaa watupigie kura tena! Tosha mambo! Siyo?

(Applause)

Bw. Naibu Spika wa Muda, mbona hatutekelezi miradi ya kumaliza taabu ya njaa miaka nenda, miaka rudi? Serikali inafurahia wananchi wawe na njaa ili wapewe vyakula na kuambiwa Serikali imeleta mana kutoka mbinguni! Watu wanashukuru na kusema: Haleluyah! Serikali imetuletea *manna* na tutapiga kura."

(Applause)

Zile pesa zinazotumiwa kuwaletea watu vyakula vya bure zingelianzisha miradi ya kunyunyizia maji mashamba. Marehemu Mzee Kenyatta alisema: "Hakuna vyakula vya bure!", lakini Serikali inataka wananchi wapige kura ili wapewe vyakula vya bure.

Kwa hayo machache, nashukuru sana.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, it is now time for us to interrupt the Business of this House. The House stands adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.