

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 13th July, 2005

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

QUESTION BY PRIVATE NOTICE

DISBURSEMENT OF FPE FUNDS TO TESO DISTRICT SCHOOLS

Mr. Ojaamong: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Education, Science and Technology the following Question by Private Notice.

(a) Is the Minister aware that some schools in Teso District have not received their allocations of money meant for the implementation of free primary education since its inception?

(b) If the answer to Part "a" above is in the affirmative, could he name the affected schools and indicate when the money will be disbursed to the affected schools?

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

(a) I am not aware that some schools in Teso District have not received money meant for the implementation of the Free Primary Education Programme (FPE) since its inception. However, I am aware that only five schools did not receive some FPE funds due to anomalies in their bank accounts in the Financial Year 2004/2005. The money due to each of the five affected schools is as follows:-

Amase Primary School	- Kshs 57,750
ACK Changara Primary School	- Kshs 40,480
Okuleu Primary School	- Kshs 76,950
Amakura Girls Primary School	- Kshs 130,855
Akolong Primary School	- <u>Kshs 166,950</u>
Total	- <u>Kshs 472,985</u>

The funds have been traced and have already been disbursed to the affected schools' accounts.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, the issue here is not about wrong bank accounts for the schools. The money meant for schools in Teso District was posted elsewhere. Some schools have not got this money for the year 2003, but in the subsequent years, they have been getting the funds. So, what caused money meant for Teso District to be sent to schools in Juja?

Mrs. Mugo: Mr. Deputy Speaker, Sir, I am not even aware that the money was sent to schools in Juja. What I am aware of, is that there were anomalies in the accounts. The hon. Member will appreciate it is not a simple task to open bank accounts for all primary schools in the country. Some schools had previously never handled bank accounts. Their money was being handled through district accounts. I think this was a big effort. The Ministry and the banks have done a very good job. I apologise for that error. I know that in respect of some accounts, we had problems with

money being returned to the Ministry because there were some anomalies here and there. That is why there were delays. I would like the hon. Member to bear with us. Most of those errors have now been corrected and the schools are receiving the money.

Mr. Deputy Speaker: Mr. Ojaamong, the most important point is that the Assistant Minister has agreed that there were some errors which have now been corrected. However, if you have another question, I will give you a chance later.

Mr. Mwancha: Mr. Deputy Speaker, Sir, the issue of schools that have not received funds for the Free Primary Education Programme is not limited to Amagoro Constituency. I thank the Assistant Minister for saying that she has now corrected the anomaly in Amagoro Constituency. Could she now assure the House that anomalies in all the constituencies have been corrected and that the funds will be directed to the schools immediately?

Mrs. Mugo: Mr. Deputy Speaker, Sir, in fact, all the funds have been directed to the schools. However, I would like to be notified if there is any accidental omission. This job is done by human beings, who are bound to make errors. I agree computerisation is now quite with us, but everything is still being done manually. If there are any exceptions, I would like to be informed as soon as possible, and it will be corrected. But I believe that we have corrected all the errors.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, I must say that I confirmed this morning that one of the affected schools got the funds yesterday. A lot of money is going towards the FPE programme and we have very unscrupulous head teachers who are embezzling these funds. Inspectorate teams have confirmed this, and I even have their reports. What is the Ministry doing to recover the money that has been misappropriated by school head teachers?

Mrs. Mugo: Mr. Deputy Speaker, Sir, in defence of head teachers, I cannot say that there are many such cases. In fact, there are very few isolated cases where there has been any embezzlement, and those cases have been taken to court. If any new cases surface, action will be taken. We have inspectors on the ground, as the hon. Member has said, doing accounts and if any anomalies or missing money is detected, the culprit will be taken to book.

(Applause)

Mr. Deputy Speaker: Very well. Next Question, Mr. Ndambuki!

ORAL ANSWERS TO QUESTIONS

Question No.091

PROVISION OF RELIEF FOOD TO EASTERN PROVINCE

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

(a) whether he is aware that the October/November, 2004 rains failed in some parts of Eastern Province and that farmers did not harvest any crop in the affected areas; and,

(b) if the answer to "a" above is in the affirmative, what mechanism the Ministry has put in place to ensure that the affected people are provided with relief food?

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

(a) I am aware that the October/November, 2004 short rains failed in some parts of Eastern

Province. I am also aware that as a result of the poor rains, some areas of the province had below normal crop harvest and this has resulted in food shortage.

(b) Due to drought that resulted from low rains received, most people have not been able to meet their food requirements. Consequently, the Government in partnership with the World Food Programme (WFP) intervened and started Emergency Operations (EMOPs) to assist needy people not only in Eastern Province, but also in other drought-affected districts across the country by providing relief food. The first phase of EMOPs started in October, 2004, and ended in February, 2005. The second phase started in March, 2005, and is due to end in August, 2005. In Eastern Province, the first phase covered several districts that included Moyale, Marsabit, Isiolo, Tharaka, Mbeere, Mwingi, Kitui, Machakos and Makeni. Some of these districts continue to be supported in the ongoing second phase of the EMOPs programme.

At the same time, to forestall any suffering of our people due to poor planning, the Department of Special Programmes has initiated a multisectoral and multidisciplinary rapid assessment in all the 26 affected districts countrywide. The outcome will enable me to decide on the length of time the EMOPs will be required in all those areas.

Mr. Ndambuki: Thank you, Mr. Deputy Speaker, Sir. The Government spends a lot of money in this area and in other areas and I think it is high time it came up with a policy on how we are going to arrest this situation, because year in, year out, we are talking of some people somewhere in this country lacking food. I would like the Assistant Minister to tell us exactly what plans they are putting in place to make sure that this problem is going to be arrested once and for all?

Dr. Machage: Thank you, Mr. Deputy Speaker, Sir. That is a very good question. Indeed, for so many years, we have had a sort of famine situation in many areas of this country. My department is new, but we are developing a policy that will be brought to the House very soon. However, I did take interest in food production by supplying seeds to quite a few areas in this country, including a few districts in Eastern Province, although this is the prerogative of the Ministry of Agriculture. It is true that by planting the seeds and through encouragement, we have reduced the number of famine-stricken individuals from 3.3 million last year to about 1.6 million in June, 2005. I encourage the affected areas to change their habits of food production and start producing tubers and other famine or drought resistant crops.

Mr. Mwandawiro: Bw. Naibu Spika, mara nyingi huwa ninasema kuwa ni muhimu Serikali na Mawaziri watembee ili wajue nchi yetu.

An hon. Member: Yes!

Mr. Mwandawiro: Ukienda zile sehemu za Ukambani hadi kule Kiboko, utakuta kuna maji mengi sana huko, ilhali kuna njaa katika sehemu ya Makindu. Je, Serikali hii ina mpango gani katika Bajeti inayokuja wa kutumia yale maji yaliyoko Kiboko ili kunyunyizia maji mashamba katika sehemu ya Makindu, ili watu waweze kupambana na njaa badala ya kusema kuwa italeta sera ambazo zinachukua miaka mingi kutekelezwa?

Dr. Machage: I believe the Ministry of Water and Irrigation is very keen on the development of water resources and irrigation systems in this country. I also believe that hon. Members from drought stricken areas will also pay particular attention and interest in the use of their Constituency Development Fund (CDF) on the same. The hon. Member's observation is actually very interesting because in Kenya, sometimes I think we confuse even God, because when there is drought, we cry and pray for rain; and when rain comes, we cry again and pray to God to stop it because we have floods elsewhere. Therefore, we have to learn to manage our environment---

Mr. Boit: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that God can be confused?

Mr. Deputy Speaker: What did he say?

Mr. Boit: He said that we confuse God. Is he, therefore, in order to impute that God can be confused by human beings?

Hon. Members: Yes!

Dr. Machage: I think he can answer that question himself, because his was not even a point of order. God responds to our prayers appropriately; when there is drought we pray for rain and he gives us rain. We then complain that we have floods and he takes away rain and we complain there is drought. What we have to do is learn how to manage the resources!

(Applause)

Mr. Muturi: Thank you, Mr. Deputy Speaker, Sir. In the answer given by the Assistant Minister, he has given the names of the districts within Eastern Province that are involved in the EMOPs, and my district, Mbeere, is one of them. He continued to say that some of these districts continue to be supported in the ongoing second phase of the EMOPs programme. Which are those districts in which the so-called "second phase" is continuing and what does the Assistant Minister mean when he tells us that he has initiated a "multisectoral and multidisciplinary rapid assessment" in all the 26 affected districts countrywide? These are just words they use in seminars and workshops and there is nothing on the ground! Could he tell us what he is doing on the ground to alleviate suffering of the people in the affected areas? He should not give us that jargon from workshops!

Dr. Machage: Mr. Deputy Speaker, Sir, we have initiated the District Food Security Committees which actually include everybody else, including hon. Members, to really give us proper reports. We also have technicians in the field to give us reports.

Mr. Deputy Speaker, Sir, the second phase of famine relief food distribution did have a hitch in May, 2005, because of the low amount of grain that we have in the Ministry. Indeed, we even had to borrow about 10,000 metric tonnes of food from the WFP for the school feeding programme to try and alleviate the situation in some parts of Eastern Province. I do pray that this Parliament passes the Vote of my Ministry as soon as possible, preferably today, so that I can pick up from where we left. We do have a problem because we do not have as much food now.

Mr. Deputy Speaker: Last question, Mr. Ndambuki!

Mr. Ndambuki: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister saying that it is true that they have a problem. They have not even told us what they have in the stores. They are purely depending on the WFP to give us food. What if the WFP stops giving us assistance today? What does the Government have in store to save those people?

(Mr. Katuku stood up in his place)

Mr. Katuku, leave him alone, let him tell us what he knows!

Mr. Deputy Speaker: Order, Mr. Ndambuki! You appear to have something you want to tell Mr. Katuku. But, certainly, you cannot do it here.

Proceed, Mr. Assistant Minister!

Dr. Machage: Mr. Deputy Speaker, Sir, the sentiments expressed by Mr. Ndambuki are not totally true. Whereas we depend a lot on donations from our friends, the Government has taken the first step. In the assessment of my requirement of the second phase of the EMOPs programme, I did note that I needed about 76,000 metric tonnes of grain, of which, the Government produced 28,000 metric tonnes. Although there is a deficit, the Government has taken the first step.

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

Mr. Deputy Speaker: Mr. Ndambuki, you may not be fully answered here. But I think what the Assistant Minister has done suffices for now.

Next Question by Mr. Oparanya!

Question No.046

PAYMENT OF PENSION TO
MR. CHRISTOPHER KANENJE

Mr. Oparanya asked the Minister for Finance:-

(a) whether he is aware that Mr. Christopher Muchibi Kanenje No.APN/PC.121113 who retired from teaching in 2000 has not been paid his monthly pension from April, 2002 to date as his file cannot be traced at the Pensions Department;

(b) what circumstances could have led to the disappearance of this file and what measures are being taken to stop similar incidences in future; and,

(c) what action he is taking to ensure that Mr. Kanenje is paid all his outstanding arrears.

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

(a) I am not aware that Mr. Christopher Muchibi Kanenje has not been paid the pension benefits owed to him from the time he retired to the time he passed away. I am also not aware that his file disappeared at the Pensions Department. I am, however, aware of the fact that the dependants' benefits in respect of the deceased are yet to be processed by the Pensions Department.

(b) In view of the answer in "a", above, "b" does not arise.

(c) The Pensions Department will process the dependants' benefits as soon as the late Kanenje's widow furnishes it with details regarding the bank account number and the branch where they would wish to have the benefits posted.

Mr. Oparanya: Mr. Deputy Speaker, Sir, obviously, the Assistant Minister cannot be aware because those who made the file disappear are the ones who gave him the answer. Therefore, they cannot report themselves to him. Mr. Kanenje died when he was still following his pension. He retired having provided faithful service to the Government.

In his answer to part "a" of the Question, he says that the dependants' benefits in respect of the deceased are yet to be processed. However, he contradicts himself in part "c" of his answer by saying that they are still waiting for the bank account number and branch where the beneficiaries would wish to have the benefits posted. When did the Pensions Department communicate to the beneficiaries about the provision of the bank account and branch? There is no information that the beneficiaries have received from the Pensions Department.

Mr. Katuku: Mr. Deputy Speaker, Sir, the facts about this case are that the gentleman in question passed away on 8th June, 2004. By the time he passed away, we had paid his gratuity and pension arrears for the period between January 2001 to September, 2001. The confusion came in when he changed the bank account and did not notify the Ministry. In the process, the money was sent to the previous account which he had closed before he passed away. We will pay the money, which he did not receive during the time he changed the account, to the dependants once they come to the Ministry and fill the necessary forms for us to process the payment.

Mr. Ndambuki: Mr. Deputy Speaker, Sir, I remember you brought a Motion here on pensions and we passed it. But it seems it was never effected. I would like the Assistant Minister to tell this House, because we continue to have many people coming to our offices trying to find out

how they can collect their pensions, what the Ministry has done about the law which we passed in this House.

Mr. Katuku: Mr. Deputy Speaker, Sir, we have implemented the law we passed in this House to the letter and pensioners are paid accordingly. But there are cases where problems arise and I want to caution pensioners. Some pensioners change the bank accounts and it becomes a problem in terms of remitting money, because we are yet to computerise our department fully. When we have this change of accounts, some pensioners suffer. But in terms of paying in time, the department has really improved and the Mover of the Motion, who is in the Chair, can confirm that.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, it is evident that many beneficiaries are still making trips to Nairobi to claim pension at the department. Could the Assistant Minister consider refunding them their fares or decentralising the process as soon as possible?

Mr. Deputy Speaker: I think that is a better question, Dr. Ojiambo.

Mr. Katuku: Mr. Deputy Speaker, Sir, the issue of refunding the fares, does not arise if one follows the procedure which is that, by the time you retire, you must submit the necessary documents to the Ministry. By the time an officer leaves the office, he gets his cheque. So, the issue of refunding fares does not arise where cases are straight. In terms of decentralising the process, it is an issue we can consider. But it is technical because when you talk of decentralisation, you will find that some of the people work in Nairobi and they come from Kakamega, for example. We are asking them to give our department accounts of banks which are near their places. We have negotiated with Post Bank which has branches all over the country, so that we can be paying them near their places.

Mr. Deputy Speaker: Last question, Mr. Oparanya!

Mr. Oparanya: Mr. Deputy Speaker, Sir, the Assistant Minister did say that the beneficiaries should come to Nairobi. How will they know that they are required in Nairobi unless and until, he communicates to them? Secondly, why can the Ministry not---

Mr. Deputy Speaker: Please, ask one question at a time! You have already asked one. Proceed, Mr. Assistant Minister!

Mr. Katuku: Mr. Deputy Speaker, Sir, once a pensioner passes away, the law requires that the dependants get in touch with the Pensions Department, so that they can fill the necessary forms and have the money paid to them. So, if it is the question of communicating, I do take this opportunity to communicate to the beneficiary. I want to send even the hon. Member to tell the widow to come to me and I will pay her straightaway.

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

Mr. Oparanya: Mr. Deputy Speaker, Sir, you told me to ask one question at a time. I still have one more question.

Mr. Deputy Speaker: No, Mr. Oparanya! You asked your first question and the last one. The matter is closed!

Next Question!

Question No.244

DISCRIMINATION AGAINST MERU
NORTH FARMERS'SACCO IN DISBURSEMENT OF FPE FUNDS

Mr. Munya is not in? The Question is, therefore, dropped!

(Question dropped)

Next Question by the hon. Member for Bura Constituency!

Question No.128

AMOUNT OF COST-SHARING
FUNDS COLLECTED IN TANA-RIVER
IN THE LAST TEN YEARS

Mr. Wario asked the Minister for Health:-

(a) how much money has been received from cost-sharing in the local district hospital, health centres and dispensaries in Tana River District in the last ten years; and,

(b) whether he could give a breakdown of how that money has been spent.

The Assistant Minister for Health (Mr. Konchella): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Facility Improvement Fund, which is commonly known as cost-sharing, was started in the year 1989. It covers primarily curative services at the hospital and health centre levels. The dispensaries were left out because it was felt they were offering primary health care. The money raised through the programme, as extracted from records held by the Health Care Financing Secretariat at the Ministry of Health Headquarters show that, for the last 10 years, that is from 1993/94 to 2002/2003, an amount of Kshs11,849,920 was raised. The hon. Member has a list of the breakdown. The hospitals are Hola, Madoga, Ngao, Bura and Garsen. They are itemised as per expenditure items and the total expenditure is shown. The money raised from each health centre is shown. For the hospital, there was a total collection of Kshs10,506,769. On the other hand, health centres raised Kshs1,695,951. We are, therefore, talking of a figure of Kshs11,849,920.

Mr. Wario: Mr. Deputy Speaker, Sir, the four health centres in Tana River District raised only Kshs1,695,951 for 10 years. That translates to only Kshs40,000 per year. Is the Assistant Minister telling us that the Government cannot afford Kshs40,000 per year to offer those services free?

Mr. Konchella: Mr. Deputy Speaker, Sir, the collections are minimal. We got the records from the district treasury. We could not account for two years because of poor record keeping. The Kshs40,000 the hon. Member is talking about is minimal. That is why, when this Government came to power, it removed cost-sharing in health centres and dispensaries. It is now done only at the district hospitals to supplement costly services which cannot be provided by the Government.

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, as the Assistant Minister has rightly said, cost-sharing has been suspended in health centres and dispensaries. Previously, that money was used to pay casual workers and other subordinate staff. Right now, most of those health centres cannot do that. Could the Assistant Minister tell this House what plans the Ministry has to pay the auxiliary staff in some of those institutions?

Mr. Konchella: Mr. Deputy Speaker, Sir, I know that there is a problem of paying casual workers and cleaners in dispensaries and health centres due to lack of money. But out of the Government's allocation to the Ministry this year, we will improve their financing to enable them pay for those essential services.

Mr. Wario: Mr. Deputy Speaker, Sir, could the Assistant Minister consider scrapping cost-sharing at the dispensary level?

Mr. Konchella: Mr. Deputy Speaker, Sir, currently, patients pay Kshs10 for registration.

That is basically for cards at the dispensaries. But for those who are not able to pay, that fee is waived. So, the health management committees in those dispensaries make decisions on their own. Dispensaries have a little token to pay for basic items which may not be available immediately.

Question No.253

ELECTRICITY SUPPLY TO SACHAGWANI CENTRE

Mr. Mukiri asked the Minister for Energy:-

(a) whether he is aware that there is no electricity supply in Sachagwani Centre in Molo Division; and,

(b) what plans he has to provide electricity to the centre.

The Assistant Minister for Health (Mr. Kiunjuri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there is no electricity supply in Sachagwani Centre in Molo Division.

(b) The Nakuru District Development Committee (DDC) has failed to submit its priority list up to now, despite three reminders sent out in September, 2004, January, 2005 and March, 2005. Given that position, it is not possible for the Ministry to indicate when Sachagwani Centre in Molo Division will get electricity. I would, therefore, like to request the hon. Member to liaise with the Nakuru DDC to have the project included in the priority merit list, which is still being awaited by the Ministry.

Mr. Mukiri: Mr Deputy Speaker, Sir, I am shocked by that answer. I thought that, at one time - I do not know whether it was last year - we were told that the DDCs were dead.

(Applause)

Mr. Deputy Speaker, Sir, the DDCs have no backing of the law in this country. Now, the Assistant Minister is telling me to go back to the DDC. I have asked a Question and this matter is a priority in the district. I am shocked because Nakuru District is one of the largest districts in this country and yet, we are told to give only five projects. I want to confirm to the Assistant Minister that those projects have been passed by the DDC for very many years. In fact, the community has contributed money and paid it to the Kenya Power and Lighting Company Ltd (KPLC) in order to get electricity.

Mr. Deputy Speaker, Sir, now that the Assistant Minister is aware that Sachagwani Centre has been prioritised, could he consider ignoring the circular that has been sent and supply electricity to that centre? Could he also confirm to us whether DDCs are still in existence?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, first of all, I do not remember when the DDCs "died"! Whoever killed them should know that we still recognise them.

Secondly, instead of the hon. Member being surprised, he had better comply with the directive from the Ministry, so that we can implement the project.

Maj. Madoka: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us what problems they have in implementing some of those projects? That is because, last year, they asked us to submit our priority list for the 2004/2005 Financial Year. We did that, but nothing has been done. I have an example of my project at Long'echu!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, the Ministry has already given money to KPLC. Secondly, KPLC is the implementor of the projects. But they also give out labour contracts. They have been faced with lack of materials required to implement the projects. That is due to the procurement procedures that we have to go through. For example, last year, there was an appeal.

This House should know that whenever an appeal is placed, it delays procurement for over six months. Those are the problems that we are having. Otherwise, the hon. Member can confirm with the KPLC that we have money for that project. It is only the implementation that is not being done.

Mr. Omamba: Mr. Deputy Speaker, Sir, it is the tendency of this Ministry to [Mr. Omamba]

give empty promises. I, for one, was promised by the Assistant Minister that a health centre in my constituency will receive electricity by December, last year. Up to now, nothing has been done.

Mr. Deputy Speaker: Mr. Omamba, what is your question?

Mr. Omamba: Mr. Deputy Speaker, Sir, could the Assistant Minister be specific in replying to questions on the implementation of electricity projects in various parts of the country?

(Laughter)

Mr. Deputy Speaker: Order, Mr. Omamba, did you use the word "lie"?

Hon. Members: Light! Light!

Mr. Deputy Speaker: Order! Mr. Kiunjuri, the question is when are you going to stop giving empty promises?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, many Members of this Parliament know very well that we are not issuing empty promises. It is only that he is one of the unlucky Members whose projects have not been implemented. But if you ask the Members of this House, they will confirm to you that we have been doing our work.

Ms. Mwau: Mr. Deputy Speaker, Sir, there are groups in this country that have paid for rural electrification. Those groups have been waiting for the Ministry to implement those projects. Could the Assistant Minister tell us when he will bring the list of the projects that will be implemented this year?

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, we even have groups that are asking the Kenya Power and Lighting Company (KPLC) to pass their proposals that under under the Rural Electrification Programme when already there are transformers and they do not want to maximise that. Let it be known that wherever there is a transformer, we have the Transformer Maximisation Programme going on. Whoever is 600 metres away from that transformer can get electricity. Secondly, we have the Customer Creation Programme, and most of the Members are complaining while we have transformers and lines already passing through their areas. Let us try to maximise that. For those groups that paid their money and we have not implemented, we are fast-tracking on that.

Mr. Deputy Speaker: Hon. Members, I am sorry, I cannot go further with this Question, owing to time factor. Mr. Mukiri will ask the last question.

Mr. Mukiri: Mr. Deputy Speaker, Sir, I am aware that it is possible for the Ministry to provide electricity without one going through the District Development Committee (DDC). The Assistant Minister has confirmed that he has helped some other Members. Electricity supply to Sachangwani Centre is easy because the poles are only one kilometre away. Could the Assistant Minister tell us when he is going to connect electricity to the centre?

Mr. Kiunjuri: Mr. Deputy Speaker, Speaker, Sir, I have not committed myself. However, I am aware that Sachangwani Centre requires Kshs6.7 million, inclusive of VAT, to implement. I want to assure the Member that immediately they bring the list of priority to the DDC, we are going to implement the project.

IRREGULAR NOMINATION OF
COUNCILLOR IN NCC

Mr. Omondi asked the Minister for Local Government:-

- (a) whether he is aware that Mr. Francis Njuru Ngugi was nominated as councillor in the Nairobi City Council vide Gazette Notice Vol. CV II No.33 of 11th May, 2005, against the recommendations of the Electoral Commission of Kenya; and,
(b) what immediate action he is taking to correct the anomaly.

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

(a) Mr. Francis Njuru Ngugi was nominated a councillor in Nairobi City Council vide *Gazette Notice No.33 of May, 2005*, as per recommendations of the Electoral Commission of Kenya.

(b) There is no anomaly and hence, no action can be taken.

Mr. Omondi: Mr. Deputy Speaker, Sir, you can see how rude the Assistant Minister is. The Minister for Local Government has decided to go against the supreme law of this country, which is the Constitution. Cap.33(3) says very well that it is the Parliamentary party that has the authority to nominate a Member of Parliament or a councillor. Then, Cap. 26(2) says that parties also nominate councillors. So, I do not know why the Minister decided to go against the law of this land and against the procedure and normal practice, and everything that governs us in this land. Could he tell us why he went against all those laws?

Mr. Kamanda: Mr. Deputy Speaker, Sir, the Minister has followed all the rules required. We have a letter from the Electoral Commission of Kenya written by the Chairman himself. In his letter, he says that he had received a recommendation from the party Secretary-General recommending Francis Njuru Ngugi to be nominated as a Nairobi councillor. So, the Ministry has followed the law.

Mr. Ndolo: Mr. Deputy Speaker, Sir, this is a very sad situation because discrimination is coming into this Parliament. There is a letter here from the Electoral Commission which I can table--

Mr. Deputy Speaker: Just a minute, Mr. Ndolo. You said discrimination is coming into this Parliament. I am asking you, the matter you are dealing with now, does it have anything to do with the House?

Mr. Ndolo: Mr. Deputy Speaker, Sir, I am saying that because the Minister, hon. Kombo himself is the one who signed the letter. I wonder if hon. Kombo is the Minister or it is hon. Kamanda. I do not think hon. Kombo is in charge of that Ministry.

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

Mr. Deputy Speaker: Will you sit down, Dr. Khalwale? Order! Mr. Ndolo, we are dealing with a Question addressed to the Ministry of Local Government. By definition, an Assistant Minister is a Minister. Therefore, I do not want you to be referring to "Mr. Kombo" or "Mr. Kamanda." Please, address the Question to the Minister.

Mr. Ndolo: Mr. Deputy Speaker, Sir, Juliet Achieng has been removed from that list and replaced by somebody else. The Electoral Commission---

Mr. Bifwoli: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for some particular Members of this House to fight for a particular person because of the name "Achieng?"

Mr. Deputy Speaker: Mr. Bifwoli, that is a frivolous point of order. Hon. Members, let us be more serious with our work. Why do you just jump up because "Achieng" has been mentioned?

You must rise above tribal politics.

Mr. Ndolo: Mr. Deputy Speaker, Sir, is it right for the Minister to disobey the law by replacing "Achieng" with "Mr. Ngugi?"

Mr. Kamanda: Mr. Deputy Speaker, Sir, Ms. Acheing died and that is why we had to replace her.

Mr. Ogur: On a point of order, Mr. Deputy Speaker, Sir, hon. Members are not telling the House what is happening. Let me tell you what it is. Within the NARC Government, there is the National Alliance of Kenya (NAK) and the Liberal Democratic Party (LDP). The lady who died was a member of the LDP. She was replaced by a member of the NAK. That is the truth.

Mr. Deputy Speaker: Order! If that is the case, the parliamentary party, as far as this is concerned, is NARC. Therefore, the question of the LDP or the DP does not arise in that nomination.

Mr. Omondi: Mr. Deputy Speaker, Sir, you have said very clearly that it is the parliamentary party that has the authority to nominate. I have a letter here from NARC, which says that, that nomination was not correct. The letter was written to the Electoral Commission of Kenya. I can table that letter. What interest does the Assistant Minister have in this particular nomination?

Mr. Mwandawiro: On a point of order, Mr. Deputy Speaker, Sir. This is NARC politics!

Mr. Kamanda: Mr. Deputy Speaker, Sir, I have no interest in whoever is nominated. However, I can shed light on this issue as a leader from Nairobi City, besides being the Assistant Minister. After the 2002 General Elections, on 15th January, 2003, leaders from Kasarani had a meeting which was chaired by hon. Omondi. I have signed minutes of that meeting here and I will table them before the House. As Nairobi leaders, we agreed to give two nomination slots to each constituency. We nominated people from different tribes because Nairobi is a cosmopolitan area. Hon. Omondi went ahead to nominate his girlfriend.

Mr. Deputy Speaker: I have been standing here when Prof. Olweny and another hon. Member were on their feet. You are not supposed to be standing up when I am on the Floor. I agree with Mr. Mwandawiro that this matter is getting out of hand. We cannot waste a lot of time on internal party politics. Therefore, we have finished with this Question.

Question No.470

GOVERNMENT PLAN ON
KR CONCESSIONING

Mr. J.M. Mutiso asked the Minister for Transport:-

- (a) what the Government's plan is on concessioning of the Kenya Railways;
- (b) what contingency measures the Government is taking to ensure that the assets of the corporation are secured; and,
- (c) who will meet the terminal benefits of the retirees and those who have been retrenched.

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

(a) The Government of Kenya made a decision to concession the Kenya Railways in the year 2000 and engaged the International Finance Corporation (IFC) in July, 2002, as a transaction advisor. However, in recognition of the potential economic benefits of concessioning the Kenya Railways Corporation and the Uganda Railways Corporation together, the Government of Kenya

and that of Uganda, in June, 2003, decided to undertake a joint concessioning of the two corporations. A Memorandum of Understanding for joint concessioning was signed on 8th July, 2004. The concession contract is expected to be signed by October this year and the successful bidder will hopefully take over operations by the end of December this year.

(b) An independent asset valuation expert has been engaged to locate, value and tag all assets that will be conceded to the concessionaire and the non-conceded assets will be left under the custody of the residual KRC. Any assets that are not to be required by the concessionaire will be sold through a competitive tendering process, while those that have outlived their economic lives will probably be scrapped by the residual KRC in accordance with the Government's procurement and disposal regulations.

(c) The cost of retrenchment is still the responsibility of the KRC in pursuance to the Kenya Railways Act. The Government is seeking funding support from the World Bank under the East African Trade Facilitation Project to meet the total retrenchment package cost. On the other hand, the Kenya Railways Staff Pensions Fund, to take care of the cost of terminal and pension benefits for retirees will be established before concessioning is completed. So far, assets to be transferred by the KRC to the Pensions Fund have been identified and the transfer is awaiting Cabinet approval.

Mr. J.M. Mutiso: Mr. Deputy Speaker, Sir, let me thank the Assistant Minister for that comprehensive answer. The KRC is in dire financial problems. The International Finance Corporation is the lending arm of the World Bank. The Assistant Minister has said that the Government is seeking funds from the World Bank. Is this not a contradiction that the World Bank is on one hand assisting the Government to get funds and on the other hand, pushing the Government to sell the KRC? Could the Assistant Minister clarify this position?

Mr. Ligale: Mr. Deputy Speaker, Sir, I have stated very clearly that the IFC was hired to act as a facilitator or an advisor to the KRC and to the Government. It is doing that job very well. We are seeking funding from the World Bank to take care of the residual facilities that we will be required to take care of, including the terminal and pension benefits for retirees. We are not being pushed by anybody. The question of concessioning the KRC was undertaken by the Kenyan Government. However, concessioning is quite different from selling off. We are not selling the KRC. We are concessioning the KRC for a period, most preferably 20 to 25 years.

Mr. Maore: Mr. Deputy Speaker, Sir, could the Assistant Minister cite which law covers this transaction, and what their fall-back position will be if the deal goes sour in due course?

Mr. Ligale: Mr. Deputy Speaker, Sir, this concessioning has received Cabinet approval, and we are aware that within the concessionary agreement there will be provisions for the course of action to be taken in case the concessionaire does not perform well. The facility will revert to the Kenya Government under certain conditions.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Assistant Minister says the International Finance Corporation (IFC) has been contracted to advise the Government on this concessioning. It was the same IFC that advised the Government to sell off mobile operators in this country for a song. It also advised this Government to sell off the Kenya Reinsurance Corporation and the Kenya Railways for a song. Could the Assistant Minister assure this House that this time round, we are not going to sell off our railways corporation the same way we have done before?

Mr. Ligale: Mr. Deputy Speaker, Sir, let me repeat what I said for the second time. We are not selling the Kenya Railways Corporation but concessioning its operations. The concessioning is supposed to last for up to 25 years. Hopefully, at the end of that period it will come back to us a better corporation than what it is at the moment.

Mr. Deputy Speaker: Last question, Mr. Mutiso.

Mr. J.M. Mutiso: Mr. Deputy Speaker, Sir, the British Rail was privatised, or

concessed, by the British Government, but the arrangement failed. The British Government has now taken back the running of its railways. The Kenya Railways Corporation is now in a financial crisis. In fact, it is on the verge of bankruptcy. It has not paid its workers for the last six months. I will, therefore, urge the Assistant Minister to stop this concessioning process in the interests of the country. Could he take that step?

Mr. Ligale: No, Sir, I cannot take that step. The process has already gone too far, and we are going to concession the Kenya Railways Corporation.

Mr. Deputy Speaker: Very well. Hon. Members, the Next Question by the hon. Member for Saku is going to be deferred. You all know what happened in Marasabit District. So, this Question is deferred until when the hon. Member will be here.

Question No.277

PROMOTION OF SOCCER IN
SAKU CONSTITUENCY

(Question deferred)

The next Question by Mr. Ndile is also deferred. Mr. Ndile has requested that the Question be deferred because he is not around.

Question No.106

TERMINAL BENEFITS FOR
FORMER AMREF EMPLOYEES

(Question deferred)

Hon, Members, that is the end of Question Time. Yes, Maj. Madoka.

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

EVICTON OF PEOPLE FROM MAU FOREST

Maj. Madoka: On a point of order, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No.20 (2), I beg to seek leave to move a Motion of Adjournment of the House to discuss a matter of national importance, namely, the continued evictions of Kenyans from their land by the Government, the resultant loss of livelihood and shelter to thousands of people, as well as the continued wanton disregard of valid court orders by Ministers of the Government, the purported repossession of land for which valid title deeds exist, and the consequential deterioration of the democratic principles of the rule of law and separation of powers.

(Applause)

Mr. Deputy Speaker: The Standing Order demands that you should have at least 15 hon.

Members in support of your Motion. Do you have them?

*(Several hon. Members stood
up in their places)*

Indeed, you have the number of Hon. Members required. I have considered the request by Maj. Madoka under Standing Order No.22(2), and have accepted that this matter be debated. I, therefore, do order that it will be debated for two hours, starting from 10.30 this morning.

Next, Mr. Midiwo.

POINTS OF ORDER
SACKING OF SIAYA DISTRICT
HOSPITAL WORKERS

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. I rise to demand a Ministerial Statement from the Minister for Health regarding the status of Siaya District Hospital.

Mr. Deputy Speaker: Order, Mr. Midiwo! Is the Minister for Health here? If she is not here, who will take this brief for her.? Okay, Mr. Ligale will do that.

Mr. Midiwo: Mr. Speaker, Sir, I would like to know from the Minister how many nurses at Siaya District Hospital were laid off due to the recent strike. I would also like to know if the Government has taken care of the dead at the Siaya District Hospital. The situation at Siaya District Hospital is pathetic. I do gather that the situation is similar to that in many district hospitals in this country. I also want her to address the issue of the so-called volunteer health workers. These are people who were picked from the streets to run health services in this hospital. I would like to know how many people have died due to negligence at the Siaya District Hospital since the sacking of the striking workers. I would also like to know what steps the Government is taking throughout the country to remedy the pathetic situation in our hospitals.

Thank you.

Mr. Deputy Speaker: Next, Mr. Angwenyi.

US AMBASSADOR'S CALL TO KENYANS
TO RISE AGAINST THE GOVERNMENT

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of internal security, with regard to a call made by the ambassador of the United States of America (USA) of America's Ambassador to Kenya on 4th July, 2005, urging Kenyans to rise up and push for a change of regime, and his promise that the USA would give those people who have the courage to stand up and cause the change of regime full support. I would like to know from the Minister whether this was not the culmination of activities, which have been undertaken by the USA Government against Kenya. It all started with their travel advisories against Kenya. Also, with regard to terrorism, the USA has tried to force our Government to punish innocent Kenyans. The USA is also making it impossible for Kenyans to visit it. Now, by what mean does the USA want Kenyans to cause a regime change?

Mr. Deputy Speaker: Do we have the Minister of State, Office of the President here? Mr. M. Kariuki, you have heard that. Have you?

The Assistant Minister, Office of the President (Mr. M. Karikuki): Mr. Deputy Speaker,

Sir, I think this issue should be addressed to the Minister for Foreign Affairs. It involves a diplomatic mission, and I think the Foreign Affairs Ministry is the right organ to address this it.

Mr. Deputy Speaker: I think I tend to agree with hon. M. Kariuki, and, therefore, the matter will be redirected to the Ministry of Foreign Affairs.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I beg to redirect my request for a Ministerial Statement to the Ministry of Foreign Affairs.

Mr. Deputy Speaker: Mr. Kariuki, could you take brief for the Minister for Foreign Affairs?

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Deputy Speaker, Sir, I will undertake to do that.

Mr. Deputy Speaker: We will now have a short Ministerial Statement from the Minister for Tourism and Wildlife.

MINISTERIAL STATEMENT

ELEPHANT MENACE IN TAITA-TAVETA DISTRICT

The Assistant Minister for Tourism and Wildlife (Mr. Khaniri): Mr. Deputy Speaker, Sir, two weeks ago, while my colleague, hon. Mganga, was answering a Question regarding invasion of Taita Taveta area by elephants, hon. Mwandawiro requested a comprehensive Ministerial Statement on the issue. It is in that regard that I stand up to make the following Ministerial Statement.

The Ministry of Tourism has received reports, and is aware of the continued destruction of properties, crops, loss of livestock and human life by wild animals from Tsavo East and West in Taita Taveta District, and adjacent areas within Coast Province. There are a total of 139 cases which have been reported to us, with crop damage accounting for 121 cases of the reported incidences. Loss of domestic animals, human injuries and loss of human lives are 11, three and three, respectively. There was only one case of property damage. The Ministry of Tourism and Wildlife has deliberately put in place, proactive measures to ensure minimal damage by wildlife, particularly in the above mentioned areas of the Coast Province where the incidences are chronic. Pre-emptive measures are being put in place by the Kenya Wildlife Service (KWS), including intensified patrols with reinforcement of rangers from other stations.

Until last week, the area required an additional 20 rangers, a shortfall that was addressed when we did the posting of recruits who graduated last week from our Manyani Training College. To contain wildlife in the designated areas, preventive steps are being taken, including putting up a strategic fence in damage-prone areas which are adjacent to Tsavo East and West national parks. The Kenya Wildlife Service is also applying new techniques like the use of repellent engine oil and pepper to ward off elephants. To keep the wildlife in protected areas, KWS is scooping additional boreholes and also rehabilitating existing ones including water pans in the parks to ensure limited digression by the wildlife, in search of water.

As the above mechanisms are being put in place or exercised, a relocation programme is at an advanced stage. The relocation is part of the National Elephants Population Management Strategy. About 400 elephants in Kwale District have been relocated to the northern areas of Tsavo East National Park and are scheduled for translocation in mid August this year. This overdue programme was postponed due to extended rainy season, particularly in Kwale District. A rapid response unit referred to as Problems in Animal Management Unit (PAMU) has been established and has started its operations this month. The Ministry of Tourism and Wildlife has increased

funding to the KWS to increase its operations and to console the victims of wildlife damages.

Mr. Mwandawiro: Bw. Naibu Spika, kwanza, namshukuru Waziri Msaidizi kwa Taarifa hiyo. Hata hivyo, kama nilivyosema, tatizo la uharibifu wa wanyama pori limesababisha umaskini katika nyanda za chini za Wilaya ya Taita Taveta kwa jumla. Sehemu zilizoathiriwa sana ni kama vile Kisushe na Paranga. Yatakiwa Waziri Msaidizi azuru sehemu hizo ili aone kama kuna utekelezaji wa mambo ambayo anayohiri. Watu wamekuwa fukara kama shule za msingi za Kisushe, Mulilo na Gongondinyi. Shule hizo zinahitaji msaada sana kwa sababu ya umaskini ambao umesababishwa na ndovu. Je, Wizara inaweza kushirikiana na Shirika la Wanyama Pori ili itoe misaada ya kusaidia shule hizo? Katika sehemu zingine kama vile kisima cha Mukuru, utapata wanyama wakinywa maji katika kisima ambacho watu wanaotumia kuchota maji. Wananchi wa Taita Taveta wanaona kuwa huo mpango wa kuongeza ndovu 400 utaleta tatizo kubwa. Wanaona ni tatizo kubwa kwa sababu ndovu walio katika sehemu hiyo wanafanya madhara makubwa.

(Maj. Madoka stood up in his place)

The Assistant Minister for Tourism and Wildlife (Mr. Khaniri): Thank you, Mr. Deputy Speaker, Sir---

Mr. Deputy Speaker: Subiri Waziri Msaidizi. Subiri kwanza Maj. Madoka aulize swali lake na pia Bw. Waithaka, halafu ujibu maswali yote pamoja. Maj.

[Mr. Deputy Speaker]

Madoka, ulikuwa na jambo lipi la kusema?

Maj. Madoka: Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the preventive measures he is putting in place. But, having an additional number of warders is not good enough. I think we need vehicles, and possibly aircrafts to patrol the area. Many times, we have warders but they cannot follow the elephants and chase them.

Mr. Waithaka: Mr. Deputy Speaker, Sir, this problem is not being experienced only in Taita Taveta District. It is also very rampant in my area, and affects those people who live at the border of the Aberdare Forest. There was a programme of fencing the Aberdare Forest, although it seems to have stopped. What is the Government doing to see that the park is fenced?

Mr. Deputy Speaker: Mr. Assistant Minister, you can now respond to those three questions.

The Assistant Minister for Tourism and Wildlife (Mr. Khaniri): Mr. Deputy Speaker, Sir, I will begin by answering the question which was raised by hon. Mwandawiro. As I said earlier, we regret that wild animals are causing poverty in his constituency. He has requested that I visit his area so as to see what is happening. On his invitation, I will tour the area when this House goes on recess. He also raised the issue of KWS helping in developing some dams and schools. We have that policy in KWS and if he makes a formal request, I want to assure him that we will look into it favourably. I appreciate the point raised by hon. Madoka, that we have a shortfall of vehicles and aircrafts. This is due to the budgetary allocations we get. I promise that if our budget is increased as we requested and approved by this House, we will purchase more vehicles to assist us to patrol the area. Regarding the fencing of the Aberdare forest, a question which was raised by Mr. Waithaka, this is purely a budget issue. We have been trying to source for sponsors for this project. I want to give assurance that when we get sponsors, we will complete the project.

Mr. Deputy Speaker: Hon. Members, before it gets to 10.30 a.m when Maj. Madoka will move his Motion, we still have some 12 minutes left. Those minutes will go to the next Order.

MOTION

PROVISION OF LOANS TO STUDENTS IN
MIDDLE LEVEL COLLEGES

THAT, in view of the significant contribution made by graduates trained in our tertiary institutions, in national development; aware that many brilliant young people cannot access tertiary education due to lack of fees; this House calls upon the Government to provide loans to all needy students in middle level colleges throughout the country.

(Mr. Koros on 6.7.2005)

*(Resumption of Debate interrupted
on 6.7.2005)*

Mr. Deputy Speaker: The last person to contribute to this debate was Capt. Nakitare, who still has five minutes!

Capt. Nakitare: Thank you, Mr. Deputy Speaker, Sir. We were looking at areas where we can finance the able and zealous students to further their education. The loan programme which was there in the past was only meant for university students. Things have now changed. There are many people attending middle level-colleges which offer technical courses. These are the people that the Government should finance. These colleges include polytechnics. Many students who are bright drop out of these institutions owing to lack of finances. Kenya is developing and there are many changes in technology. We urge the Government, and especially the Ministry of Education, Science and Technology to look into ways of introducing low-cost institutions and also awarding students soft loans so that bright students can further their education. In my constituency, we have teachers under the Kenya Union of Post-Primary Education Teachers (KUPPET), who have not been promoted on merit. They are pursuing parallel degree programmes in our universities and spend most of their salaries to pay tuition fees. They are all married and have children who go to school. Since they are also going to school at a mature age, they need urgent financial assistance from the Ministry of Education, Science and Technology through a loan system.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, I would also like to see a situation where colleges are going to benefit from the loan system. We are introducing computer science in schools yet we have no teachers trained on this subject. It is a new technology and it requires urgent measures to ensure that colleges get technical assistance so as to teach computer science. The Government has given technical assistance to laboratories in schools, but they also need technical know-how from college students. However, we have university graduates teaching yet technical assistance in laboratories is only undertaken by college level students. It is, therefore, imperative for this Government, and especially the Ministry of Education, Science and Technology to consider introducing soft loans to students so that they can pursue degree and diploma courses. These students will also act as role models to the children below college level who would also like to acquire diplomas and degrees.

Mr. Temporary Deputy Speaker, Sir, there is another area where the Ministry has to look

into. We have people pursuing postgraduate studies and most of them are not covered under the loan system. A student who is pursuing a Ph.D requires a lot of funding, especially in terms of research. These people seek for employment to get the meagre finances to enable them complete their studies. This is important.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, it is strange that whereas we aspire to be an educated nation, we are not able to open doors where our children can be self-sufficient and educated. Students in middle level colleges are also important. To eradicate illiteracy, we need to encourage our people to go to school at all costs.

With those few remarks, I beg to support.

Mr. Sungu: Thank you, Mr. Deputy Speaker, Sir. I also rise to support this Motion. The Mover must be congratulated for a very noble idea.

Mr. Deputy Speaker, Sir, we must realise and accept the fact that poverty is widespread in Kenya. Most of the poor people cannot afford decent education. We want to congratulate the Government for introducing free primary education. However, as far as secondary education is concerned, the allocations we have for the constituency bursary funds is not enough. Some of us at the constituencies have reverted to using some of the Constituency Development Fund (CDF) allocations to finance poor children.

When it comes to post-secondary education or tertiary education, there is virtually nothing available from the Government to help people who are usually very bright and who cannot afford education at that level. I want to draw the attention of the House to the increase of middle level colleges in private hands. These states clearly that there is a need for education at that level because not all the students who go through secondary schools can go to the university. You will find that these colleges are so expensive that children from poor families cannot afford education in these institutions.

Mr. Deputy Speaker, Sir, it is now necessary for the Government to take up this matter. Some of us in the constituencies have taken up the issue and have allocated some little money from our CDF to finance tertiary education for poor children. Just look at the percentage of children who go to the university from secondary schools. It is a tiny percentage. It is, therefore, important that the Government focuses on this area so that we can help these people.

Mr. Deputy Speaker, Sir, we cannot gainsay the fact that we are a poor country and that our people are suffering. We must recognise that in line with the Government's Millennium Development Goals, a lot needs to be done for the poor of this country. One of the major tenets of the Millennium Development Goals is the alleviation of poverty. Poverty affects most of our children. For us to proceed, we must focus on that area. This nation is very proud of the fact that we have real manpower. If you compare us with other countries in this region and elsewhere like Southern Africa, you will find that we have a well educated lot. This is largely through the sacrifices of the poor parents. However, with the on-going globalization and the fact that prices in the international market for things like oil is increasing, poverty will continue to be a problem. Because of that, I want to appeal to this House to support this Motion. It is very noble. I also urge the Government, even before this House passes this Motion, to focus on this area so that we can educate our children. This will give them a fair fighting chance in this modern world, which is highly

competitive.

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

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Deputy Speaker, Sir, I also wish to support this Motion. It is significant to note that we now have a bursary system for our secondary schools. We also have the Higher Education Loans Board (HELB) to take care of the universities. However, there is a category of people between Form IV and the university that has not been taken care of. This is a very important category. As we look forward to training professionals, having graduates in engineering and agriculture, we cannot forget that an engineer, for example, will not be able to discharge his professional work without the technician who is so critical. The technician has to be trained at a polytechnic to acquire the necessary skills. Similarly, to train a doctor, you need a para-medical; a nurse and a clinical officer who will work together with the doctor. This is the category we say that it cannot be wished away.

Talking about the legal profession, we have para-legals today. We need to train clerks in our courts and for advocates. This is the para-legal cadre that has to be taken care of if advocates and judges are going to discharge their work. These people are very important. Therefore, they should identify important professionals; be they para-medics, technicians or para-legal officers who will support that particular profession. We need to plan our work in such a way that as we continue to train people at universities, we take care of tertiary institutions which ensure that we have the necessary support staff. In this regard, we find that fees in training institutions, for example, teacher training colleges and polytechnics are quite high and sometimes quite prohibitive to the ordinary people. Unless assistance is extended to this category of trainees, it will become extremely difficult for them to pursue their courses. It is time---

Mr. Deputy Speaker: Order, Mr. M. Kariuki! You have to stop there. You have eight minutes to finalise your contribution when debate on this Motion continues next Wednesday. We have to stop there because Maj. Madoka has to move an important Motion.

COMMUNICATION FROM THE CHAIR

LIMITATION OF DEBATE TIME ON ADJOURNMENT MOTION

Mr. Deputy Speaker: Hon. Members, in accordance with our Standing Orders, the Mover of this Motion will have 15 minutes to move his Motion, the responder, 15 minutes, and hon. Members, 10 minutes to make their contribution.

Maj. Madoka, proceed!

Maj. Madoka: Mr. Deputy Speaker, Sir, in moving this Motion, I am deeply concerned about the consequences which may arise as a result of some of the statements made by the Government Ministers. I, therefore, have no intention of mincing my words in moving this Motion.

One of the most dangerous statements ever made by a Minister of the Government since Independence was that title deeds are just mere pieces of paper. For once, I thought that this was a slip of the tongue by the Minister. However, this was later confirmed by the Assistant Minister, Office of the President---

Mr. Deputy Speaker: Maj. Madoka, by the way, you are talking about moving a Motion, but you have not moved any Motion. Could you, first of all, move the Motion?

Maj. Madoka: Sorry, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: You are overzealous!

Maj. Madoka: Mr. Deputy Speaker, Sir, yes, I am, indeed, over zealous!

Mr. Deputy Speaker, Sir, I beg to move a Motion to discuss this matter of national importance.

Mr. Deputy Speaker: Maj. Madoka, that is not the right procedure. Put it in the right way!

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

EVICTION OF PEOPLE FROM MAU FOREST

Maj. Madoka: Mr. Deputy Speaker, Sir, I beg to move that this House do now adjourn to discuss a matter of national importance.

Mr. Deputy Speaker: That is right, proceed!

Maj. Madoka: Mr. Deputy Speaker, Sir, as I said, the most dangerous statement ever made since Independence by a Government Minister was that title deeds are just mere pieces of paper. As I said, I thought it was a slip of the tongue. However, an Assistant Minister, Office of the President also asserted that, indeed, a title deed is just a mere piece of paper. This means that all title deeds which we hold are valueless. We all know that land was a major issue when we were fighting for Independence. If Government Ministers will behave in such a manner and make irresponsible statements, what are we expected to do? On this question of land, if, indeed, these title deeds are mere pieces of paper, what the Government is telling us is that we should disregard all title deeds which were issued in the past. Indeed, if all these title deeds are disregarded, then there will be total chaos in this country.

If you go down to Coast Province, all big hotels are built on land where title deeds were issued without the consent of the people of that region. Even in my constituency in Taita-Taveta, we have many people who are foreign occupants of our land. This is our ancestral land and yet, we never gave consent to the Government then to issue those title deeds. If the Government continues to make such statements, then they should be prepared for a land revolution in this country.

(Applause)

If you visit Timau and Kericho tea estates, you will realise that all these were forests that were eventually given out through title deeds and farming is being done there. What is this Government saying? If, indeed, the previous Government made a mistake in issuing certain title deeds to these individuals--- It cannot be a mistake because these title deeds are registered in the Ministry of Lands and Housing by Government officers. It is now wrong for the Government to try and tell Kenyans who own these title deeds that they are not entitled to these pieces of land.

Mr. Deputy Speaker, Sir, a title deed is a sacrosanct document. Therefore, it should be respected. It is time that the Government prepared itself to reverse this decision or pronouncement. Otherwise, Kenya will, indeed, be in trouble. Worse still, this Government has behaved in the most barbaric manner by removing Kenyan citizens from their land and sending them away to no place at all. If it was a caring Government, they should even have taken proper care to relocate those people, if, indeed, they felt they should have evicted them. But they did not. Kenyans are, indeed, very disappointed by the action taken by the Government.

Mr. Deputy Speaker, Sir, as I move on, Ministers are ignoring validly issued court orders. I am glad one of the Ministers is here. When they were grabbing KICC, there were court orders that, indeed, KANU owned KICC, but they still went ahead and disobeyed the court orders.

Hon. Members: Shame on you!

Maj. Madoka: Mr. Deputy Speaker, Sir, in evictions in Mau Forest, again, there were court orders stopping the evictions. But these Government Ministers continue to disregard such court orders. Also, with the Kenya Seed Company (KSC), a court issued orders, but the Government disregarded these orders. If Kenyans were to disregard all these court orders, where will this country be? I think the NARC administration has reverted to the law of the jungle. They have completely disregarded law and order. It is important that they note that, as in the case of title deeds, it is not the owners of the land to go back to the Government and say: "I think you issued this title deed illegally." The onus is on the Government to prove that, indeed, those title deeds are illegal. So, let them stop telling Kenyans to go and grab this land. We would want to do that because we, indeed, believe some of the land given out is our rightful land and we should be there. But now you have opened it up to all Kenyans to move and occupy land as and when they want and when they feel it is theirs. This has happened in Kajiado District after these orders were issued by the Minister. In fact, parents and school children were seen breaking up a fence to claim a particular piece of land because they believe it is theirs. These Ministers do not know what their responsibilities are. I believe the Government has lost direction if, indeed, there is any direction. I think the burden rests with the President.

(Applause)

These Ministers are disregarding the law and unless the President exercises control over them, I am afraid he is going to be blamed. The buck finally stops with the President. Let this Government know that, if it continues doing what it is doing, let it know that it is sleeping on a volcano. One day, it is going to erupt and, once it does that, Kenya will be destroyed. There will be absolute chaos in this country. If the Government is genuinely concerned about this nation, let it change its attitude in handling that particular issue. The deterioration of democratic principles and the rule of law is of great concern to us all. Look at what has happened in Marsabit; a complete breakdown of law and order. Innocent Kenyans have been killed in those particular areas. That has arisen because of irresponsible utterances by people who are supposed to be leaders. That is what has happened in that particular case of evictions and illegal repossession of land. The Ndung'u report made clear recommendations and suggested that, if there was a case to be dealt with, a tribunal should be appointed. But a few Ministers do not want to follow the recommendations of that report. This Government owes it to Kenyans to start behaving responsibly to avoid any future chaos in this country. This is a country we love. I bleed for this country when I think of the possible consequences which may arise as a result of what is going on. I do not want to take too much time because many hon. Members would like to speak on this particular Motion. But the Government should take up the position of being responsible and stop any further evictions and repossession of land and stop disregarding validly issued court orders.

With those few remarks, I beg to move.

Mr. Deputy Speaker: Mr. Kosgey, do you want to second, or is it, Mr. Maore?

Mr. Maore!

Mr. Maore: Mr. Deputy Speaker, Sir, I wish to second the Motion as moved by Maj. Madoka. I wish to urge the Government to move with humaneness and compassion to its own people. I visited Timau in March, where the Government had evicted people from what it called forest land. Strangely enough, the hon. Member for North Imenti pleaded with the late Francis Lotodo to de-gazette that piece of land, so that the people could be settled. After a parcel of land has been de-gazetted by a gazette notice of a Government, the only time you can disregard that gazette notice is if there is a revolution or a coup. You then suspend the Constitution and say: "We now

have martial law." If you rescind that gazette notice as well as the title deed involved--- We are asking an elected Government to be humane and compassionate and use civilised methods to ask people to move away from water catchment areas. This country will benefit if we talk of forests, but not trustlands. We need forests as catchment areas to protect our wetlands. But trustlands can be used by county councils and other local authorities. The central Government should have nothing to do with it, unless the local authorities send an alarm saying that they need the General Service Unit (GSU), the Administration Police, the District Officers and the chiefs. Otherwise, this Government seems to be full of idlers who have nothing to do! They perform duties that do not belong to them.

Mr. Deputy Speaker, Sir, you cannot say that certain people belong to a regime. There are no people who belong to KANU or NARC. We are all Kenyans. As I have always said, the most rotten face of KANU is now on that side. Those are the dynamics of politics. When they realise that KANU is likely to win, they will shift alliances again. That is normal. So, when you are obsessed with the idea that when you punish people from a certain village, you are punishing KANU voters it, is an exercise in futility. What we have seen the APs, GSUs, and the chiefs doing, can only be described as beastly. It is beastly because the brutality they mete against the people and their property is unbelievable. In those areas, we saw how they had burned stores with food. We saw a lot of potatoes burning and maize smouldering. You wonder what crime property had committed. Yes, the people might have misbehaved. But what had the property done? The cattle were chased away. We are asking the Government to be humane and act according to the law.

Mr. Deputy Speaker, Sir, that is why it is only fair to conclude that, if any of the Ministers chooses to run amok, there is nobody to control or tame that Minister. If one of them needs to be corrected or straightened, there is nobody to do it. Even when mega corruption is going on, there is nobody to tame it. We need a boss who does not want to stay above the fray. We want one who will be involved in the day to day running of the affairs of the State. There is a difference between delegating duty and abdication. What we are experiencing today is a leadership that has abdicated its responsibilities and left the Ministers to run amok, purporting to run the affairs of their respective Ministries. We need to ask that, in all that crying and bloodletting, where is the voice and the direction of the President? We know that he does not go out of State House most of the time. He was supposed to go to Nyanza, but he has cancelled again for the third or umpteenth time. So, when those people are crying and being destroyed by malicious officers on the ground, what is the position of the Chief Executive Officer (CEO) of the land? It is not difficult to conclude that the country is running on auto-pilot. After reaching the cruising speed of 33,000 feet above sea level, a plane is between you and God. So, where we are today as a country, is between us and God. Even when LPD chose to run away from the fold, they stayed away and nobody went for them, until they chose to come back. That is how the country is being run.

Mr. Deputy Speaker, Sir, we are asking for guidance! We are asking for the whip to be cracked against the renegade, Mr. Kimunya, who believes that a title deed is a piece of paper. We do not want the Government to be irritated by law. If you find the law inconveniencing or irritating, please, change it. You have the majority. That is why you are the Government. Come to the Floor of this House and rescind the gazette notice. Then, go to the people who have been allocated that land and compensate them. Many global funds like European Union (EU), United Nations Environmental Programme (UNEP) and others can fund-raise and buy out those catchment areas. That is what you should do if you want to protect those catchment areas. However, what I see here is malice and a Government that has run amok on its own people.

Mr. Deputy Speaker, Sir, I do not want to take the time allocated to me in full.

I second this Motion of Adjournment.

(Question proposed)

Mr. Wamwere: Bw. Naibu Spika, asante sana kwa kunipa nafasi hii. Nitajaribu kusema kwa kifupi iwezekanavyo. Kwanza, ningependa kusema kwamba naunga mkono hatua ya Serikali ya kutoa watu kutoka sehemu za misitu kwa sababu kama Serikali haikufanya hivyo, bila shaka nchi yetu itakuwa jangwa na nchi ikiwa jangwa tutapatwa na masaibu makubwa kuliko yale ya kutoa watu ambao wamehamia katika sehemu za misitu.

Bw. Naibu Spika, baada ya kusema hivyo, ningetaka kusema ya kwamba ningetaka kuhimiza Serikali inapowatoa watu katika sehemu hizo iwafanyie utu. Ni makosa kuwachomea watu nyumba. Ni makosa kuwatoa bila ya kuwapa makao pahali pengine. Ni makosa kutoa watoto shuleni pasipo na kuwatafutia shule nyingine lakini utu huu tunataka ufanyiwe wale ambao wanatolewa sehemu za Mau na ufanyiwe wale ambao walitolewa sehemu za Molo, Londiani na Burnt Forest miaka 13 iliyopita na mpaka sasa watu hawa hawajatafutiwa makao tena.

Pia ningetaka kusema kwamba maskwota wanapotolewa katika sehemu zao, pia wafanyiwe utu. Kwa hivyo, tunaomba utu ufanyiwe wote ambao wanatolewa popote pale wanapotolewa.

Bw. Naibu Spika, jambo lingine ni kwamba tukiwatoa wadogo lazima tukumbuke kutoa wakubwa kwa sababu sehemu za misitu zilinyakuliwa sio na hawa wadogo ambao wanatolewa lakini na marais waliokuwa katika nchi hii. Rais Kenyatta alinyakua sehemu za misitu. Rais Moi alinyakua sehemu za misitu. Mawaziri ambao sasa wanalalamika wamenyakua sehemu za misitu.

(Applause)

Kwa nini hatua isichukuliwe dhidi yao? Haki ifanywe sawa kwa mdogo kama vile mkubwa lakini tusiwe na ubaguzi wa kusema tumtoe mdogo na kule wakubwa wanaendelea kufanya siasa zao wakifikiria kwamba tumesahau ya kwamba hata wao ni wanyakuzi.

Bw. Naibu Spika, ni unafiki kusema kwamba hati miliki haiwezi kuwa haramu. Tunajua Wazungu walipokuja hapa walikuta watu wetu wakimiliki ardhi lakini waliwapiga risasi na wakawatoa kwa mashamba yao halafu baadaye wakajiandikia hati miliki za kusema mashamba hayo ni yao. Sasa ninauliza: Tunaweza kusema hati miliki hizo ni halali? Kuna hati miliki halali na hati miliki haramu. Hati miliki haramu zinastahili kubatilishwa; zibatilishwe kwa wadogo na wakubwa. Kwa mfano, familia ya Kenyatta tunaambiwa ina hekari 500,000. Waliipata ardhi hiyo kihalali? Ni imani yangu ya kwamba hawakuipata kihalali na kama wana hati miliki, hata miliki hizo ni haramu na Serikali ina haki ya kuzibatilisha.

Bw. Naibu Spika, pia ningetaka kusema ya kwamba hatuwezi kuambiwa ni lazima wakati wote tutegeme mahakama. Mahakama hizi zimejaa wafisadi, najua kule kwangu kwamba watu ambao wamenyang'anywa mashamba yao na wamekwenda kortini wakitafuta haki, wamekaa hata zaidi ya miaka 20 wakingojea kufanyiwa haki. Hakuna hukumu ambayo inatoka mahakamani. Kwa hivyo, hatuwezi kuambiwa eti kama unataka haki kama mtu amekunyang'anya shamba na amejiandikia hati miliki haramu, ni lazima mahakama iamue au sivyo hakuna wakati utapata haki. Kwa sababu hiyo inamaanisha ya kwamba watu watakaa miaka---

The Minister for Roads and Public Works (Mr. Raila): Jambo la nidhamu, Bw. Naibu Spika. Je, si mhe. Wamwere anapotosha Bunge kwa kusema kwamba tushiheshimu amri ya mahakama sisi kama nchi ambayo inataka kutawaliwa kisheria na kihalali? Huo sio msimamo wa Serikali!

(Applause)

Mr. Wamwere: Bw. Naibu Spika, ninachosema ni kwamba kuna njia nyingi za kupatia watu haki. Unaweza ukapata haki kupitia kwa mahakama na pia kupitia kwa vyombo vingine vya Serikali.

Mr. Kosgey: Deputy Speaker, Sir, thank you very much for giving me this opportunity. At the outset, I want to say that the purpose of any government, and those who are in the Front Bench had better listen, is to protect lives and property of its citizens.

(Applause)

This Government has failed totally in protecting lives and property and, therefore, it has no purpose in governing this country. If it cannot protect property and lives of its people, *kwisha!* They should not be in Government!

Mr. Deputy Speaker, Sir, these people have legal documents in the form of title deeds and not pieces of paper. Whether these title deeds are in Timau or Mau Narok they were issued by the same Government. The security forces cannot walk in overnight with guns and start shooting innocent people who are not armed. These security forces torched people's houses and destroyed property including livestock. They have rendered people destitutes. What sort of Government [Mr. Kosgey] is this? This is just a rogue Government!

(Applause)

This is a Government which came into power through a political wave and *wananchi* are regretting voting for it in 2002.

Mr. Deputy Speaker, Sir, there are ways of acquiring land. You must follow the law. If you acquire land compulsorily, then you should compensate for it by showing people where they should go. Look at what happened in Mau Narok! That land is not a forest. It is not a catchment area. It is trustland that was given legally by the county council to those people. The Government goes and burns 16 primary schools, 33 churches and thousands of houses and tells the people to go to hell and then they expect us to co-operate! You sit on us and you tell us we must co-operate? It will not work that way! This Government had better come back to its senses.

Mr. Deputy Speaker, Sir, this Government said that it was going to stick to the rule of law. If we do not have the rule of law in this country as it is now, then we might as well call it quits. We cannot be governed by the rule of the jungle. We have seen so many instances where this Government has actually taken the law into its own hands. It does not obey court orders. It takes it as it wants it. You do not have a blanket cheque to do as you wish. You must follow the law.

I want to state categorically that land is a sensitive issue in this country. The war for Independence was fought over land. It was basically a land issue. Land is still a very sensitive issue in Kenya and should be handled with care otherwise it is a recipe for chaos.

(Applause)

I can declare that the whole of Uasin Gishu District belongs to the Nandis and anybody who occupies land in that district today can incur their wrath. If this Government wants the law to be obeyed, then they had better start obeying it or else I will disobey it. If those in the Government think that they can punish members of the Kalenjin community, who live in Narok District and other parts of the country, by evicting them from their legally-acquired property, they should take

note that there are other communities which live in other parts of this country who should be evicted, if the need arises. The Government has no monopoly over violence!

(Applause)

Hon. Members: Yes! Tell them!

Mr. Deputy Speaker: Order, hon. Members! We are not going to use the Floor of this House to threaten peace! I urge hon. Members to restrain themselves and avoid making any statements which may incite Kenyans.

Proceed, Mr. Kosgey!

Mr. Kosgey: Mr. Deputy Speaker, Sir, I beg to support.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I would like to begin my contribution by saying that I agree with the hon. Members who have said that we need to treat the people who are being evicted from Mau Forest humanely. We, in the Ministry of Education, Science and Technology, have tried our level best to assist the victims. We have even enrolled the children from the schools which were burnt down in other schools.

Secondly, I will talk generally about public land and not the Mau Forest. Sometimes we make comparisons on the law without really digging into the roots of the kind of law that we want to have so much faith in.

First, in this country, we had title deeds, certificates of examinations and even university degrees which were fake. So, it is not unusual that we have had paper documents many years ago.

Secondly, as we speak about the law, let us ask ourselves whether or not comparing this law with the law which originated from the West is actually proper. First, it is difficult in the West for people to grab public land. Therefore, we are in a different circumstance. Secondly, they tell us that in law, and there are many lawyers here, that ignorance is no defence. If you went through the process of doing something while knowing that it was faulty, you are defenceless before the law.

Thirdly, some of the politicians who are making a lot of noise now grabbed land and sold it out. Previously, those politicians supported the kind of lawlessness they are now speaking against. They were leading when it came to ethnic cleansing. They even spoke about it openly.

Mr. Deputy Speaker, Sir, I would like to talk about fairness. If we are removing squatters from settlement schemes, street vendors, people from up market streets and grabbers of public land from public roads, why is it that we must apply the law selectively? We must also go for the real crooks and not just the poor. Many crooks are on the Opposition side!

*(Several hon. Members stood
up in their places)*

Mr. Deputy Speaker: Order! Dr. Mwiria, there are no crooks in this House! Could you withdraw that remark and apologise to the House?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, I withdraw that remark and apologise to the House. When Mr. Maore said that the worst rots of KANU are on the Government side, I want to say that some of the worst rots remained on the Opposition side.

These kinds of action are important in that they send a message that it will not be possible for people to grab public land, do whatever they like, disobey the law because they can hire expensive lawyers who can defend all sorts of scandals and leave us to experience long drawn

battles---

Mr. Kosgey: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister to continue implying that the people who are being evicted from Mau Narok grabbed the land, and yet they got it legally? Why can the Government not differentiate between the people who grabbed the land and those who got it legally?

Mr. Deputy Speaker: Order, Mr. Kosgey! That is a point of argument! May you allow other hon. Members to contribute to this Motion?

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Deputy Speaker, Sir, we will ensure that the reports of the commissions which have been set up are implemented. It is not possible for us to think that we can take advantage of our positions in Government to oppress the majority in this country.

An example has been given about the colonial days when the *Mzungu* allocated public land for schools, cemeteries and public parks so that we can relax. Apparently, we fought the *Mzungu* because he took land from us. However, when the previous regime of KANU came into power, it took over the very land that the *Mzungu*, who did not like us, left for us. They presided over its exploitation and took all public utilities. It is important for us to realise that we had leaders, and I am not blaming the new hon. Members, who had no regard for the poor. It is hypocritical for such leaders to tell us that they care for the poor when we know that some of them actually grabbed that land and sold it to the people who are now being evicted.

Mr. Deputy Speaker, we should be honest with ourselves and look at these issues without being partisan. If we do that, we will realise that many of us, both in the Government and the Opposition side have wronged. We should address these issues in an honest and unemotional way.

Thank you, Mr. Deputy Speaker, Sir.

Mr. M. Kilonzo: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Adjournment Motion.

There is an element of trivialization of what is going on in the country. It seems to me that the Government has opted to politicise what should not be politicised. When a Government Minister claims that a title deed is a piece of paper, whereas there is no title deed in Kenya which is issued without the sanction of this House, he owes an apology to Parliament. This is because all title deeds issued under the Registered Land Act are expressly defined by that Act. All the title deeds issued under the Registration of the Titles Act are clearly defined. All the title deeds issued under all laws are clearly defined. Therefore, to allow the Minister to sit in this House and laugh at us when we raise these issues suggests that we have a Government which has become lawless. I deeply appreciate the fact that the good Minister comes from a background of credit and debit balance because he is an auditor by profession. It seems that His Excellency the President has also ignored that very important factor. It is possible that the Minister, in looking at title deeds, because there is no debit or credit entries on them, assumes that, that is an entry which has no qualification.

This week I took the trouble of spending my money and bought two books, one of which I sent to the hon. Minister and my good learned friend, the Assistant Minister, Office of the President, Mr. M. Kariuki. That book is written by Mr. De Soto of South America. This is a very distinguished man. He is describing the problems facing the Third World. I felt that I should buy the book and send it to the two hon. Members because, for the first time, it seems that Kenya will sink even below the level of a Banana Republic or a Third World country. The main problem facing the Third World is dead capital.

Mr. Deputy Speaker, Sir, I must pay tribute to the late President Jomo Kenyatta and retired President Moi, because those two gentlemen recognised the value of a title deed. They recognised that as long as the poor people in this country could not go to a bank with a title deed and borrow

money, this country would remain at the levels that I am describing. What became of His Excellency President Kibaki? He has remained silent. He does not say anything. He does not fire Mr. Kimunya or Mr. M. Kariuki. He does not read the material that has been published all over the world, requiring that the only way to get out of poverty is to convert the dead capital that is in this country, in the form of land into active capital.

[Mr. Deputy Speaker left the Chair]

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

In fact, De Soto comes to the conclusion that those people who are fighting over the irregular allocation of land are the ones who have missed the boat. The real Kenyans are the characters in the nature of the late Mzee Jomo Kenyatta and Mr. Daniel Toroitich arap Moi in the sense that, if you walked to either of them and convinced them--- Of course, in the process of convincing them, you could also tell a lie. You would, for example, tell any of them: "Your Excellency, if you give this title to me in Parliament, I will be able to build a 20-storey building and create jobs." He would then give you the title deed. I would prefer a person like that, than His Excellency President Kibaki, who says: "No! No! No! This is land grabbing and I will not give you a piece of land because you would be carrying a piece of paper."

I challenge this honourable House to note that history will judge us very harshly if we continue allowing the Government to evict people from Mau Forest, or from forest land all over the country, without using the legal machinery of recognising title deeds and allowing our country to convert dead capital into live capital. We will be making a mistake!

Mr. Temporary Deputy Speaker, Sir, let me ask one hypothetical question. Assume that you were a foreigner, and you were coming to Kenya to invest in the city centre, where Kenyatta International Conference Centre (KICC) is situated. The question you would ask your lawyer would be: "Lawyer, if you were to give me this title deed, would it be taken away from me?"

I beg to support the Motion.

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to air my views on the eviction of Kenyans from forests.

This exercise has been going on for a long time. We saw it happen more during the KANU regime than it is happening now. In my own constituency, we had Kenyans who lived in the Mt. Elgon Forest for a long time. They were helping the Government to plant trees. They had built schools and health centres, but the Government of the day evicted those people. Many people from my constituency were evicted from the forests without replacing the basic facilities like schools and health centres. A lot of those people went and settled at market centres. They are still being sheltered by churches. The evictions caused a lot of suffering.

Mr. Temporary Deputy Speaker, Sir, I would not want to see what happened during the KANU regime happen during this regime. If we have to evict people from forest land throughout the country, that should be done in a humane manner. We should address this issue throughout the country. We are not just addressing the eviction from Mau Forest. We used to have a lot of forests in this country, but because we did not have a structured manner of relocating people from those forests, we have tended to use unorthodox means and subjected Kenyans to a lot of suffering.

Mr. Temporary Deputy Speaker, Sir, I would like to mention that, there were a lot of evictions of people from forests in my constituency. The eviction continued in Kwanza

Constituency because of the insecurity situation that prevailed in that area then. Many of my people were evicted from land they had bought and other land that had been allocated to them by the Government, despite the fact that they had title deeds. So, when we address the issue of evictions, we should do so generally and not target specific communities.

A title deed is like a logbook. It is a document that proves that you own the land. It is not upon Kenyans to decide whether a title deed is fake or not. It is upon us, as Government, to determine that. So, proper measures must be taken to ensure that one's title deed is either fake or genuine. It is not for any other person to do so. Grabbed land has been confused for land that was actually given to Kenyans by the KANU Government. There are many people in Trans Nzoia who were given land. However, in some recent Press publications, this land is being referred to as grabbed land. Any land that was given to individuals by the former Government and whose owners have title deeds, it is upon us, as Government, to ensure that we protect those people.

Mr. Temporary Deputy Speaker, Sir, finally, the forest cover of this country is 0.7 per cent and yet the minimum should be 2 per cent. So, it is upon us leaders to make sure that we achieve this minimal percentage. It is the KANU Government which reduced this country's forest cover from 2 per cent to 0.7 per cent. So, it is upon us, who are now in Government, to ensure that--

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, hon. Members! Why have you stood up in your places?

An hon. Member: His time is up!

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): No, it is not yet up!

An hon. Member: It is, the red light is on!

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

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I think you will have to add me a few more minutes!

The Temporary Deputy Speaker (Mr. Khamasi): I will add you a half a minute.

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): Thank you, Mr. Temporary Deputy Speaker, Sir.

I was saying that the KANU Government reduced this country's forest cover from 2 per cent to the current 0.7 per cent. It is, therefore, upon all of us to ensure that we build our forests again. Therefore, the eviction of people from forests should continue, but let it be done in a humane manner.

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

Mr. Temporary Deputy Speaker, Sir, you must have heard what the Minister said; that he does not recognize title deeds. We want you to give him time to tell us the type of title deeds that should be recognised. Let him be given that time to educate us. Otherwise, we should request the Minister to relinquish his position in order to be educated a little bit on matters of title deeds.

Hon. Kibaki took over leadership of this country in December, 2002, but what is happening now can be compared to the overturning of the Government of Uganda in January, 1971, when Idi Amin took over and the citizens were singing: "Idi Amin! Idi Amin!", but his Government never lasted for eight years. The Government turned on its own people by killing them; killing the judges and ignoring what was stated in law. This is what is happening now; we are driving in the same

direction. Sooner or later, I do not think the Government will last even those eight years in power if they cannot change right now. You will never go beyond eight years and if you do, and I swear by the name of God, you will never last, if you continue in the same manner. Killing people who voted for you to be the Head of this State will amount to nothingness in future!

Mr. Temporary Deputy Speaker, Sir, let us not be driven by the urge to get the Nobel Prize money. We must be careful about what is happening. Let us not be driven by the---

Mr. Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Kimeto! Order!

Mr. Kimeto: I wanted to---

Mr. Temporary Deputy Speaker (Mr. Khamasi): Order!

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the emotional way in which the hon. Member is speaking, I understand that he has personal interest in this matter and he should, therefore, declare his interest first, before he continues misleading this House.

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, he wants me to declare my interest in this matter, but I must say very frankly that, the people who were driven away are the ones who purchased the land, including me! If you know the bitterness of having built on your farm which you bought and then it is burnt, then you will know how I am feeling. If you were me, then you would be in the same position.

Mr. Temporary Deputy Speaker, Sir, let us not be driven by the Nobel Prize money, which Prof. Maathai won because of looking after trees; you should, instead, look after the lives of people to enable you win the Nobel Prize from the world community for preserving the water catchment areas. That is not the case because you will leave your people to die in order to get money, and the deaths cannot be compared to the money you will get. Let us allow our people to live in the water catchment areas and plant many trees there, instead of forcing them out using guns, burning their houses and raping their wives in front of their husbands! *Heei!* What is that?

(Laughter)

Mmekosa hata wanawake wenu hadi mnawabaka wanawake wa watu wengine mkitumia askari? What could that be? What is wrong with this Government? If you want to resign, you should do so immediately and let KANU form a Government.

I would also like to thank hon. Kibaki for remaining very quiet in State House when other things are happening in the rural areas and people are being harassed. I would like to thank you for uniting other people; you have united all of us in KANU and those in the Government; that is the God-loving, humanitarian nation; let me thank you for that and encourage you to continue sleeping until, maybe, 2007.

(Laughter)

Mr. Temporary Deputy Speaker (Mr. Khamasi): Your time is up! Proceed, Mr. Kembi-Gitura!

Mr. Kembi-Gitura: Thank you, Mr. Temporary Deputy Speaker, Sir. This is a very important Motion which, in my view, should be discussed and canvassed in a very sober manner. It is a matter which touches on all of us as a nation, and particularly, hon. Members. It is also an issue which must be discussed without tribalizing it or politicizing it unnecessarily.

When I was in my first year at the university, I was taught a few things, some of which still remain dear to me. One of them is this: A court order remains a good order until it is overturned either by a higher court or revoked by the same court.

(Applause)

So, Mr. Temporary Deputy Speaker, Sir, those are things which do not change because there are things which are always sacrosanct. The other thing that I was taught at the university is that, in the law of evidence, the person who alleges must prove his allegation. For example, if you say that I have stolen your things, it is up to you and not for me to prove it. These are things that must always be dealt with.

We are a nation and we have different types of terrain in our country. We know what is happening to our country today; rivers are running dry and it is irrelevant, as some people say, that Mau Narok is not a gazetted forest. The question is: Is it a forest? Is it a catchment area? Does it help us to get rain? Those are the issues that we must discuss soberly. What we are saying here is this; that, it is true that there are people who live in Mau Narok and they have been living there for many years. If it is true that their title deeds are fake, then that needs to be established. If they are fake, then, of course, they are not title deeds. But until that happens, we cannot call them fake.

(Applause)

If the Government has realized, like it should have realized many years ago, that these catchment areas should be protected, then the removal of the people in Mau Narok must be done, and done in an orderly manner.

(Applause)

It is not just going to be in Mau Narok; people must leave all the forests of this country, be it in the Aberdares, Mount Elgon, Mau Forest or wherever they are.

(Applause)

People must leave our forests, but it is wrong in this time and age to burn houses, evict people and school children. When you see people trekking with their donkeys carrying their doors and windows not knowing where they are going, it is a very sad thing, indeed, to watch. I think all of us are saying that, that should not have happened in 2005 in Kenya. Let these things be done; let us establish who is in the forest land and then, if these people acquired title deeds legally, I would like to say this in broad daylight: They need to be compensated.

(Applause)

It does not matter who they are or where they are from, but the moment we start talking about tribes in this House; the moment some people start saying that their people are being finished, then that is the moment we start going back to the dark ages. What we should say firmly is that, our forests must be vacated and people must leave our forests. But if they do leave the forests and they had good title deeds which had been issued by the Government of the Republic of Kenya, then these people need to be compensated. We have an Act of Parliament regarding the compensation of compulsorily acquired land. Let it be done because it is for the general and main good of our country. Our future generations will never forgive us if they find a desert where there were trees before; if they find a situation where there are rocks and we did not take care of what we ought to

have cared for when we had time to do so. We must remember this: That, the Government is a continuous entity.

(Applause)

If you say that the people who are having these title deeds are not genuine but they are in the registers of the Government of the Republic of Kenya and they paid some duties to acquire those titles, the Government, therefore, took part in giving them those titles. Then, those titles must be recognized and re-acquired as the law permits. That is what we are saying and that is all one would say at this time. But we cannot pretend and go behind the law saying that people must remain in forests when, indeed, they are destroying the future of our country.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

I beg to support.

(Applause)

Mr. Salat: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance. First and foremost, I would like to thank the Mover of this Motion. In fact, it is my prayer that what has happened in Narok South will not happen to any other community in this country. I agree with the hon. Member that, in this day and age, it is very primitive for such a thing to have happened. I do not want to talk about Mau Forest because the people of Narok South were evicted from a trust land. We need to define where the people were evicted from. It is a trust land and not a forest. We have seen, on television, parents and children moving in different directions without exactly knowing where they are going. This has not been perpetrated by anybody else, but the same Government that is supposed to protect them. The people we are talking about are Kenyans. We cannot have Kenyans who are refugees in their own land.

Mr. Temporary Deputy Speaker, Sir, what is happening in Narok South is very sad. When we see the Minister for Lands and Housing laughing, when he is talking about the lives of Kenyans and actually declaring title deeds to be pieces of paper, we wonder whether he is living on this planet or not. We would have wished that the Government had sensitised these people that they were residing in a catchment area before it evicted them. In addition, the Government has a duty to provide an alternative settlement. But that alternative was never provided. Those people were kicked out. I concur with Mr. Kimeto that this issue is very emotional. If the Government can choose to declare title deeds that people are in possession of as mere pieces of paper, then they might as well go back there and tell those persons who bought their land that their title deeds are pieces of paper. Therefore, they have every right to reclaim their original land. The Minister who is actually here is a person I have known to be one who was advocating for human rights in this country. But he is no longer the person we knew! Recently, he answered a Question here and said that the people who were evicted from Mau Forest have gone back to their original homes. Where are these original homes, if I may ask? Kenyans have a right to live anywhere they choose in this country. If the Minister is actually saying that they have gone to their original homes, he should also start finding his original home because, very soon, he shall also be asked to do so.

(Applause)

Mr. Temporary Deputy Speaker, Sir, we have the Kenya Human Rights Commission. It is sad that it is quiet on this issue. We have it being operated by remote control from America. It has

not mentioned anything to do with this issue. We are asking the International community not to keep quiet. We know the former President of the United States of America (USA) will be coming to the country very soon to praise this Government for providing free primary education. But does he know that 16 schools have been burnt down in Narok South? If he knows, could he do what he did last time when he was the President, unless human rights do not matter any more to him? He is coming to praise His Excellency the President who does not care about his own people. If he did, he would not have let the likes of the Minister for Lands and Housing keep on going on national television and really disregarding the rule of law. It is very sad! We will not entertain and condone this behaviour because it is a recipe for anarchy. If the people of Narok South will not be resettled, everybody else should take note. If they do not belong there, very soon those people will have to belong somewhere! I am saying this because the same Government which is supposed to uphold the rule of law is actually disregarding it. These are people who were brutally evicted from their own houses. This kind of brutality is one where women were raped.

The Temporary Deputy Speaker (Mr. Khamasi): Your time is up!

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

The Assistant Minister for Finance (Mr. Katuku): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion of Adjournment. I want to sympathise with the people who have been affected. I understand the suffering they have gone [**The Assistant Minister for Finance**]

through. It is painful and more so, for my colleague, Mr. Kimeto, who I know has land there from which he has been evicted. But most important for us is that, we, as a House, are agreeing that we must protect our catchment areas, forests and all what is supposed to be for the good of all Kenyans. The only area we are not agreeing on is how to deal with those who have acquired what belongs to us, as Kenyans, altogether. If one has acquired a piece of land irregularly, then, we, as Kenyans, have a right to repossess it. We have seen this not only in Mau Narok, but also in this City. For example, at the Haile Selassie Roundabout there is a petrol station built by a former Minister in the KANU Government. How can one grab land meant for a public toilet and built a petrol station and you want Kenyans to say: "Halleluyah, this is a very good development?" We must repossess that kind of land. The procedure may be different, but what belongs to Kenyans, and which was given irregularly to politically well-connected Kenyans, must revert back to Kenyans.

However, the procedure is the issue. If there are people who are in areas where they found themselves in without knowing, we can sympathise with them. They can be given ultimatum in good time to relocate, so that the land can revert back to Government. But action must be taken against those who do not want to surrender voluntarily what does not belong to them. In this case, the Mau area is very crucial for those who are operating downstream. Rivers have dried up. Therefore, we need to protect that area. The only thing we need to address now, and I am sure the Minister is looking into it, is how can we get these people out of that area to a better place and have the area protected. Without that it is like saying: "We leave the area to be destroyed further." If we do that we will tamper with the livelihood of people living downstream. We have people in Narok and other areas who will be affected if this forest is not protected.

I would not want to see a situation where people are saying this is tribal because we have seen the same eviction being done around Mt. Kenya region. I have heard some hon. Members complain that, that is tribal eviction. But let us be focused and honest with ourselves and do what is right for this nation. The issue which hon. Members from the affected region should be addressing is how we should deal with the situation now. We need to find schools for pupils who need to go to school. We also have people who need to be resettled. They have just joined a list of landless people in this country. We have landless people in Kibwezi, Mau Narok and Mt. Kenya. I think the

Minister should look at how to address the issue of those who have no land. But I do not understand why some hon. Members here should be very loud, and yet, they are the same people who have taken land from the landless in this country. It is some of the hon. Members on the other side of the House who were in Government who grabbed land! You see a fellow here with large tracts of land. What do you do with thousands and thousands of acres of idle land, when Kenyans have no land to settle on? That is shameful. I do not want to go personal on this matter, but we must honourably give back those pieces of land. In Taita- Taveta, the Leader of the Official Opposition has large tracts of land. He should give back that land to the Taita people to settle on. That is what I am saying. We must---

The Temporary Deputy Speaker (Mr. Khamasi): Your time is up, Mr. Katuku!

The Assistant Minister for Finance (Mr. Katuku): I beg to--- Is it to oppose or support?

(Laughter)

Mr. Biwott: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. Indeed, forests and people are not new to Kenyans. The forests existed before modern governments were established. They were protected by the very same people who are now being accused of not knowing what to do with the forests.

Mr. Temporary Deputy Speaker, Sir, we have Dorobos who still inhabit the land, but they do not destroy it. They know exactly where the catchment areas are. They know exactly what trees to cut. They know what to do in the forests. What happened is that poverty has driven people to take desperate measures and invade more forest areas.

Mr. Wamwere: Not that alone!

Mr. Biwott: Indeed, today, large tracts of land in Kenya were once upon a time---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Biwott!

Mr. Wamwere, we will not take that any more! You better sit there and listen!

Mr. Biwott: Heckler! With regard to the issue that we are discussing at the moment, there are people who are being evicted from Mau Forest. Those people are relying on the Government, which was elected to protect its people. They look upon the Government for protection. Therefore, it is important that the title deeds that were given by the Government be respected. The question of the acquisition of land is provided for in the laws of this country. Whenever land is acquired, there is a process. That process has to be done sensibly, with care and with utmost care. We should know that we are dealing with human beings. The people who are suffering now are the poorest of the poor. They do not have any other means except that land. If they are evicted abruptly, they are completely dislocated and rendered destitute. They look upon the Government as their source of refuge.

Mr. Temporary Deputy Speaker, Sir, law and order is required to create predictability, hope and security for those who are there. Laws are made and courts created to administer them.

Mr. Munya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Since hon. Biwott was stated to have acquired 1,000 acres of land in a forest, could he declare his interest first, before he continues?

(Applause)

Mr. Biwott: That is frivolous! Mr. Temporary Deputy Speaker, Sir, whatever I have acquired is legal and anybody can challenge that in any court of law.

(Applause)

I am the one who follows the law and court orders. I have never disobeyed any law or court order. I would like everybody to follow court orders. Otherwise, we need civic education to educate people to follow the law. But, at the moment, Kenyans are Kenyans and everybody must obey the law and court orders. That way, we will have the rule of law in this country. Without the rule of law, anarchy sets in. Nobody wants to see anarchy in this country.

We have a government that we respect and follow. Any country without a Government--- For example, in Somalia, there is no government at all. It is total anarchy and disorder. Therefore, I appeal to the Government to ensure that title deeds for those who have been affected in Mau Narok Forest are recognised and respected. The people should be treated according to the law. The Government should also obey the law as interpreted and judged by the courts. We should not bring emotions into this matter. We should also not utter words that will aggravate the pain of those who have been affected. They are very poor people. They include children and old people. They have been rendered homeless in their own country. That should never happen in a civilised society like ours.

With those few remarks, I beg to support.

Mr. Angwenyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important Motion. First, I want to thank the Mover of this Motion. I thank him because he has brought a matter that is affecting Kenyans. It touches on the rights of all Kenyans. There are several issues that must be discussed and resolved.

- (i) Human rights of Kenyans.
- (ii) The sanctity of title deeds.
- (iii) Separation of powers, for example, court orders.
- (iv) Politics of discrimination.
- (v) Law and order.
- (vi) The environment in which we live.

Mr. Temporary Deputy Speaker, Sir, the people who settled in Mau Narok area are Kenyans. They have rights, just like you and I.

Mr. Temporary Deputy Speaker, Sir, imagine the house you bought in Westlands. You paid the money through a loan advanced by Parliament. You processed that title deed through the Ministry of Lands and Housing. You paid stamp duty to acquire that title deed.

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to bring the Chair into this, when he knows the Chair cannot buy---

The Temporary Deputy Speaker (Mr. Khamasi): Certainly not!

Mr. Angwenyi, I would like you to keep the Chair out of this debate!

(Laughter)

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I will keep the Chair out of this debate. However, I was trying to talk about the right of every individual in Kenya, including the Chair.

Mr. Temporary Deputy Speaker, if the Government determines that the title deed which you got is not genuine, and yet you processed it through Government machinery, the best it can do is sanction itself for having committed that offence. If the Government allowed fraudsters to defraud poor Kenyans and take the land in Mau Narok, then the Government must, first, arrest those

fraudsters. The Government must, first, recover the money that was paid to those fraudsters. Once it has the money, it should look for an alternative piece of land somewhere and give it to those people before they evict them.

Mr. Temporary Deputy Speaker, Sir, our people are living like wild animals in Narok South. Those are Kenyans. We must look after them. Their only protection is the Government. They cannot protect themselves. They are not like you and I. So, I am saying that those people have human rights. We must handle them humanely and address their problems.

Mr. Temporary Deputy Speaker, Sir, court orders have been issued, and we are a lawful Government. We must respect those court orders. If we do not want to agree with them, we must go back to court and have them lifted. We know what politics can do. My people suffered during the 1991/92 tribal clashes. Some of them have never been settled back to their land to this day. We do not want to commit a crime that was committed by the previous Government. We do not want to be proud of committing the same crime that was committed by the previous Government. We must not discriminate against the poor people of this country. The Government must, first of all, apprehend the people who committed that fraud. Secondly, the Government should look for an alternative plan. Thirdly, they should compensate those people because they invested in schools and homes which were burnt down. Those were investments by those poor Kenyans. They must be compensated. We want to be seen to be a government that is mindful of the welfare of Kenyans, whatever their situation.

Mr. Temporary Deputy Speaker, Sir, it was very unfortunate for the Minister for Lands and Housing to say in front of Kenyans that those title deeds were mere pieces of paper. That means his Ministry issues mere papers! The Minister must retract that statement, maybe, on the Floor of this House! He should say that the statement he made was unfortunate and should not be repeated.

With those few remarks, I beg to support.

Dr. Ali: Thank you, Mr. Temporary Deputy Speaker, Sir. I was just about to give up on ever catching your eye, but I appreciate.

Mr. Temporary Deputy Speaker, Sir, I stand to support the Motion. Where I come from, there are no title deeds. That is why we are lucky. I do not have a grudge with the Minister for what he said, because we do not have any title deeds. Even if he says they are mere papers, it does not really matter to me. But that statement was very unfortunate, although I have no grudge against the Minister. But I should tell him, and he should understand that, that was not right. I think that was not right. The lawyers sitting next to him should advise him accordingly. To err is human, but if you correct your mistake, then that should not be a problem. I think the Minister should retract that statement. Even if I come from a place where there are no title deeds, I have one or two titles in Nairobi. So, at least, the Minister should accept that they are important; otherwise, your house will be invaded and you cannot claim it.

Mr. Temporary Deputy Speaker, Sir, if the Minister wants to take land, from Kenyans, especially in forest or catchment areas, he knows the rules and he should follow them. There are white people here who have huge tracts of land, which they took long time ago. There are absentee landlords in the Coast. The Minister could buy that land and resettle these Kenyans, who are landless. How do you take land from innocent Kenyans, who earn their means of livelihood from there when there is a huge chunk of land which is empty and you do not know the owner? You just respect them because they have money and they will challenge you in court. I think that is not fair. Those are double standards, and that is shameful. If this Government cares about Kenyans, it should not do that.

Mr. Temporary Deputy Speaker, Sir, I see double standards here. Nothing happens to those who have money. The poor ones are being thrown out left, right and centre. Somebody is running

around with three cattle and 20 children, with nowhere to go. This is terrible. Those people should be settled somewhere.

Mr. Temporary Deputy Speaker, Sir, I support the fact that catchment areas and forests need to be protected. It does not matter whether they are forests or Trust Lands. Even forests in Trust Lands should be included in the Bill which is supposed to be brought before this House. Something should be done about this. People who live downstream are suffering because they do not get any water, for example, along Tana River, Ewaso Nyiro and Athi River. The Kambas who live downstream of Athi River are suffering. We need to protect our forests and catchment areas. However, this does not mean that the people who were allocated land in forests should be thrown out. The Government should help them to get land somewhere else.

What surprises me is that Ministers flout the law and nothing is done to them. An hon. Member who was given a job to present a report of a Committee to this House is in trouble now, but Ministers are walking free. They say whatever they want, and flout court orders and the courts do nothing against them. The Chief Justice keeps on saying that action will be taken against those who break the law. Why can he not put these Ministers in? These are double standards.

Mr. Temporary Deputy Speaker, Sir, Kenyans should handle these issues soberly. People should be very careful. We do not want tribal statements to be made. We do not want tribal clashes in this country. People are being killed in Marsabit now for no reason.

With those few remarks, I beg to support.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this debate. I believe that whatever the Minister said, which has elicited so much storm, has, perhaps, ignited the real land debate in this country. Judging from the emotional way in which this issue is being debated, I can see that we need, as country, to very clearly debate this issue in a proper way.

Like many of my colleagues have said, I will also support the fact that even if people are being moved out of a water catchment area, that has to be done in a humane way. As an hon. Member of this Government, that is something that I want to associate myself with. Secondly, this also has to be done throughout the country, so that if we have now started reclaiming water catchment areas, forests and national parks which were grabbed, there has to be a plan of action, so that this is done throughout the country and there are no charges of negative ethnicity.

However, I think that the real issue to be debated is: If land has been illegally given to people, or people have taken away land illegally, should the mere issuance of a title deed legalise the illegality? That is the question that we have to discuss. I have this feeling that the opposite side of the House is saying that we should get to a situation where even if title deeds were given illegally, they now need to be legalised, so that we get to a position where we agree, as a country, that whichever way in which land was acquired, we will accept that it was acquired legally.

I really think that the Minister should assist the country in terms of resolving this issue once and for all. The question is: Does a Kenyan have a right to own land which was illegally acquired? We know that public land was illegally acquired. We also know that water catchment areas, forests, national parks and public utilities were illegally acquired. We also know that the customary law which represents people under the Lands Groups Representative Act--- We know all those were illegally acquired. Is it enough to resolve land matters under the Ndung'u Report? You know, when we establish a tribunal, lawyers will go to court claiming that we cannot have a special tribunal to investigate the matter. According to them, this issue should be dealt with, within the jurisdiction of the courts. Tribunals set up as suggested in the Ndung'u Report will be challenged, as it is illegal and will be taking up the role of the courts.

We did not establish the Truth and Reconciliation Commission and if that was done, the issue of land could have been handled. We need to ask ourselves if we need to go through that route as well. Even in the Bomas Draft, the question of how illegally acquired land should be resolved has been postponed by the establishment of a land commission.

In the past, there was an orgy of land grabbing, even within my constituency. So, I began to do what the Minister is saying should be done; to look for land which was illegally given and repossessing it. When I tried to do that, of course, I faced problems. That is why, even after that particular edict from the Minister, I am still waiting for this matter to be properly dealt with in Makueni, Mukambita, where some senior people got land, and also in a neighbouring constituency called Kibwezi. I visited Taita-Taveta District recently and found out that there was a lot of land which Mr. Criticos had acquired illegally. There is a problem there. We need to once and for all debate, as a country, the question of what to do with title deeds which were given out for land which was acquired illegally. I think we should be sympathetic with the Minister in his struggle to get some results in this sensitive matter.

Mr. Kenyatta: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to address this Motion and will begin by saying that I support it. The issue I want to address most is that of the rule of law. Before I address the issue, I want to make a statement. The statement is: When we deal with the issue of land, let us remember that it is very emotive. When we deal with the issue of land, let us remember that we are dealing with an issue which is likely to cause war, and ultimately, civil strife. Too often than not, we have heard this Government and various hon. Members of this House, whenever serious issues come before us, simply dismissing them by saying that other people have been involved in the same. Subsequently, this justifies the evil deeds that someone is doing.

The issue we are discussing here is that of the rule of law. If anybody holds or acquires land, property or business within the law of the land, that is legal. Whether it is one acre or 10,000 acres, it is legal because it was acquired legally. If people or the Government have any queries to question any acquisition, there is a due process that should be followed. We have courts where these matters are handled and can be handled. The issue of concern is that you should not take the law into your own hands! If it is illegal to own, for instance, ten or 100 acres of land, then this House should pass that law that says a Kenyan citizen is only entitled to own five acres of land. Land is an emotive issue. When you see people who have acquired land being illegally evicted against standing court orders, where a court of law has issued court orders saying that the illegal harassment and removal of people from their land should be stopped, yet the Ministers say: "No! Court orders and title deeds are pieces of paper!", what then does it tell the average Kenyan? He has been told that if a Minister can be lawless, so can he.

(Applause)

When you hear Ministers tell people that a particular land belongs to a particular community, so *rudini kule mlikotoka*, yet somebody has purchased that land through hard-earned cash, what are you telling that person when he goes home? We are telling him to take up a *panga* and kill his brother. What are we telling that person? Are we telling that person that the only way he can get his right is by breaking the very law which the Government is supposed to uphold?

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. Does the Leader of the Official Opposition have the moral authority to speak on this matter when he and his family have over 500,000 acres of land in Taita-Taveta? Could he hand over that land first?

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Hon. Members on the Front Bench on my left would rather give the Leader of Official Opposition time to speak. When you do that, you waste more time. Let us hear the point of order and then we can respond.

The Assistant Minister for Finance (Mr. Katuku): Mr. Temporary Deputy Speaker, Sir, in a civilised society, I have a right to be heard.

(Loud consultations)

Please, protect me from the other side! Is this the way to conduct business?

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Let us be respectful to the House. Let us conduct ourselves in a mature manner. This is not the way to conduct the debate here. You know it is not the right thing to do, yet you continue doing it. The answer is that we have to be orderly as a House!

Proceed, Mr. Katuku!

An hon. Member: That is irrelevant!

(Loud consultations)

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Leader of the Official Opposition to speak on this issue when he and his family have over 500,000 acres of land, which they need to surrender to the poor?

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Order!

Mr. Kenyatta: Mr. Temporary Deputy Speaker, Sir, as I said, and I repeat because it looks like the hon. Member had wool in his ears and he could not hear, the issue is how that land was acquired. If it is legal, it is the responsibility of this Government to protect that individual's land. It is not the right of this Government or any individual to step or over-step the law. What we are talking about is respect for the rule of law. What this Government and hon. Members are actually setting is a precedent that this Government will for many years live to regret.

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

The Temporary Deputy Speaker (Mr. Khamasi): Mr. M. Kariuki, you only have five minutes to make your contribution before I call upon the Minister to respond.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, speaking hot on the heels of the Official Leader of the Opposition, first of all, I would like to acknowledge that he apologised to Kenyans. However, an apology is not complete until there is complete restoration.

Hon. Members: You are right!

The Assistant Minister, Office of the President (Mr. M. Kariuki): The hon. Member apologised on behalf of KANU for the ills they committed in this country, among them, grabbing of public land!

(Applause)

This is the time for restoration, not mere rhetoric---

Mr. Kenyatta: On a point of order, Mr. Temporary Deputy Speaker, Sir. When we

apologised to Kenyans, we said that parties do not commit crimes, but individuals commit crimes. Those crimes, if any, were committed by a majority of hon. Members who now sit on the Government side. Ask the Assistant Minister to ask his own colleagues to apologise!

(Applause)

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, that was not a point of order. It was unnecessary interruption. But I am saying that I believe the hon. Member for Gatundu South is a very honest Christian. When he makes an apology, he should read the Bible, which says: "You restore that which you took away without reason, seven times."

I know the great divide this morning in this House is between two groups; one group that wants to retain ill-gotten gains---

Mr. Kosgey: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that most of the culprits of land grabbing and other scandals which were committed are on the other side of the House, would I be in order to ask Mr. M. Kariuki to tell his colleagues to restore all they took before pointing their fingers on this side of the House?

(Applause)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Why are we treating ourselves like this? Let us be orderly!

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I appreciate the emotions this matter evokes. I am saying the great divide in this House and in this nation is between two categories of people. There are those who want to retain the ill-gotten gains of illegality over the years, and they are very bitter people. They want to retain those gains at any cost. There are also some of us who are equally bitter because the public was deprived of what was rightfully public. We will do whatever it takes to ensure we restore to the public that which is theirs!

(Applause)

This is the big debate in this country. We are at cross-roads and we will not move backwards. We must give the public what is their due.

Allow me to say one thing about Trust Land. I would like to draw the attention of hon. Member to Section 115 of the Constitution of this country. It says:-

"All Trust Land shall vest in the county council within whose area of jurisdiction it is situated..

Provided that there shall not vest in any county council by virtue of this subsection...

(2) Each county council shall hold the Trust Land vested in it for the benefit of the persons ordinarily resident on that land and shall give effect to such rights, interests or other benefits in respect of the land as may, under the African Customary Law for the time being in force and applicable thereto, be vested in any tribe, group, family or individual."

So far, it is repugnant to any written law. The written law here is that we have a Forest Act and an Environment Act which precede the rights under the Trust Land. What we are doing in Mau Forest is to preserve that written law.

Hon. Members: *Toka hapo! Toka!*

The Assistant Minister, Office of the President (Mr. M. Kariuki): You had better listen to me!

Hon. Members: *Kaa chini!* Your time is up!

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! I hope we know what we are doing here this morning!

I now wish to call upon the Minister to respond.

Hon. Members: Shame! Shame!

The Minister for Lands and Housing (Mr. Kimunya): Thank you very much for your compliments.

Mr. Temporary Deputy Speaker, Sir, before I respond, I would like to donate three minutes to Mr. Mwandawiro and two minutes to Dr. Khalwale.

Mr. Mwandawiro: Bw. Naibu Spika wa Muda, nataka kusema jambo moja kuhusu Hoja hii. Inafaa tuzungumzie tofauti juu ya utawala wa sheria na ule wa haki. Mimi kama Mbunge wa Wundanyi, watu wa Taita-Taveta wamenyang'anywa ardhi na watu ambao wako kwa Bunge hili, na hasa wale wanaotaka uongozi wa nchi yetu, baada ya kutunyang'anya mashamba. Nasema kwamba tufuate utawala wa haki na sio ule wa sheria ambazo zimetumiwa kuwadhulumu watu wetu. Haki za kumiliki ardhi zimetumiwa dunia nzima, na hata katika nchi yetu, kuwanyang'anya watu ardhi zao. Kwa hivyo, nakubaliana na Waziri kwamba hati za umilikaji ardhi ni karatasi ambazo zinatumwiwa kuwanyang'anya watu wengi haki zao za umilikaji ardhi. Nchi hii ni lazima isuluhishe jambo la ardhi kwa kutambua haki zaidi kuliko sheria za dhuluma zinazojitokeza kupitia kwa hati za umilikaji.

An hon. Member: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Order! He was given only three minutes! Your time is up!

Dr. Khalwale!

Mr. Mwandawiro: Wananchi wa Kenya wataziangusha sheria hizo siku moja, lakini haki itatawala milele na kuleta suluhisho!

Ahsante sana, Bw. Naibu Spika wa Muda.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, today, we are discussing this Motion because the Minister made a move in the interest of the majority of Kenyans who get life from water. Secondly, resistance has arisen from certain leaders in this country, who want to trivialise a matter of life and death to look like it is an ethnic agenda.

Hon. Members: It is! It is!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, may I inform this House that, in Mt. Elgon District, people from my ethnic community have been removed! But we, as leaders, have not trivialised that; we are trying to re-settle them.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, Dr. Khalwale! What is it, Mr. Serut?

Mr. Serut: Is the hon. Member on the Floor in order to mention Mt. Elgon, when the Bukusus and other Luhyas are the ones who have invaded Mt. Elgon? I am going to order them out of Mt. Elgon if he insists!

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, hon. Members!

(Loud consultations)

Order, Mr. Cheboi! Order, hon. Members! If you want us to continue with the business of the House, you should actually respect yourselves and behave like hon. Members. This is now stopping to be an honourable House. We must sit here to transact business and I will not allow this to go on any more. Let us be respectful to one another. When somebody is on the Floor, let him make his point and you will get time to make yours. So, I am not going to allow this to continue.

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

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Cheboi, you will have to obey the Chair! If you do not want to, then you know the consequences! Could we, please, respect the Chair.

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

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Cheboi! Can you sit down?

Dr. Khalwale, you have the Floor.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, it is on record that these leaders are not fighting for the evictees. They are fighting for nothing but themselves. If they really want to lead the evictees---

Mr. Sirma: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Dr. Khalwale is talking from a point of ignorance. Is he in order to say that this eviction is not directed towards one ethnic community? It is only that the Luhya have not been touched, but the Government will come to their land tomorrow.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, if these leaders really want to lead the evictees, they should not lead them back to the forests. In the first place, they should lead them to the private property of the people they bought that land from. It is a very big shame---

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

The Temporary Deputy Speaker (Mr. Khamasi): Order! Mr. Cheboi, you know there are too many hon. Members here. It cannot be you alone. Can you, please, sit down?

Mr. Minister, you still have ten minutes before the House adjourns. Go on and respond.

The Minister for Lands and Settlement (Mr. Kimunya): Thank you, Mr. Temporary Deputy Speaker, Sir. As the emotions of the last one-and-a-half hours have shown, land is a very emotive issue. It is also an issue which we need to discuss with sobriety and with minimum emotions.

Mr. Temporary Deputy Speaker, Sir, I wish to thank all the hon. Members for sharing two issues. First, we need to emphasise and reinforce the rule of law in this country. The hon. Members have also been very unanimous on the fact that we need to conserve our water catchment areas in our forests for future generations. In balancing the two, I also heard unanimity in terms of the fact that we need to do everything possible to ensure that we do not destroy what we are taking care of on behalf of generations to come. Some mistakes occurred in the past, which resulted in people finding themselves in places where they should not have been and we cannot continue in that situation, just because entries were made in a register.

Mr. Temporary Deputy Speaker, Sir, we have a responsibility as leaders in this country and House. We have to make some choices, and we have a choice here either to legalise illegalities and deprive our future generations of their heritage, or we have to take some hard decisions and say that we need to make some sacrifices to restore for the future generations what rightfully belongs to them. When Kenyans talked to the Njonjo Commission, the Ndung'u Commission and the Ghai Commission, as it went round seeking views on the Constitution, one thing was very clear; that they want everything that was taken away from them returned to them.

Mr. Temporary Deputy Speaker, Sir, the NARC Government is on this side because it promised to restore to the public what was taken away from them. The vote against KANU was, to a large extent, because of what was perceived as the role it played in taking away resources from the

public.

Mr. Sirma: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Minister in order to refer to the Njonjo and Ndung'u commissions, which to a large extent are tribal?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I do not want to go to the level of discussing tribes in this House. Kenyans have suffered because of lack of water. We witnessed the longest power rationing in this country in 2001. Our industries collapsed and the cost of production went up because of the destruction done to our forests. Right now, our biggest attraction, the Mara River is drying up.

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

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I thank the hon. Member. I do not need his information now.

The greatest migration in River Mara is threatened because of the destruction we have done to our forests. We took the decision to protect the Mau Forest after overflying it in the company of the area Member of Parliament. As we overflew the forest, the hon. Member said that we cannot allow the destruction of the forest to continue. Later that day, we held a meeting at Keekorok where we agreed that the people who were settled in that forest should be evicted and on the modalities to be used. We agreed that public rallies were going to be held, to explain to the people why they must move out of that forest. We even gave those people time to move out of the forest. Eventually, when the time lapsed, we evicted them because they continued destroying the forest instead of moving out. We have satellite imagery and aerial photographs of the destruction which was taking place between February, 2005, and the time we evicted those people.

Mr. Salat: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to mislead this House that prior to the eviction, public rallies were held? Could he tell us how many public rallies were held because we are not aware of them? Where were those rallies held?

The Minister for Lands and Housing (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I have stated clearly that we agreed that hon. Members from the area would sensitize the people. The fact that they did not has nothing to do with me. Instead of the hon. Members sensitizing the people, they told them to resist the eviction. The hon. Members also told those people they would not be evicted from that forest. Unfortunately, we had to use whatever force was required in order to conserve the forest.

It is painful to see people suffer. I feel for the people who have been evicted from Mau Forest. I also feel for the millions of Kenyans, born and unborn, who will suffer because of the greed by a few people who have cut down all the trees in Mau Forest. I feel for the people who will suffer forever because of a few people who made money by selling part of that forest. We cannot sit here as leaders and legitimise the greed and the illegality of a few people in this country.

(Applause)

I have been patient. Let this be a warning to the people, including some of the hon. Members who are here, that action will be taken against those who have grabbed public land. Criminal charges will be preferred against them.

Thank you, Mr. Temporary Deputy Speaker, Sir.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.