

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th April, 2005

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

NOTICES OF MOTIONS

ESTABLISHMENT OF A BOARD TO
VET PRIVATE SECURITY FIRMS

Mr. Sasura: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:- THAT, in view of the increase of insecurity in the country; aware of the fact that the existing Government security machinery cannot adequately address insecurity in the country, this House urges the Government to establish a Board within the Police to vet all private security firms and arm those firms which are licensed to provide security both to business and private persons.

(Mrs. Ngilu entered the Chamber with a handbag)

POINT OF ORDER

MINISTER OUT OF ORDER TO CARRY
HANDBAG INTO THE CHAMBER

Mr. Keter: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mrs. Ngilu to carry a bag to the Chamber?

Mr. Deputy Speaker: Mrs. Ngilu, what do you have to say?

The Minister for Health (Mrs. Ngilu): Mr. Deputy Speaker, Sir, it is a small handbag!

Mr. Deputy Speaker: Please, may you do what we always do.

Hon. Members: Where is the handbag?

Mr. Deputy Speaker: Order, hon. Members! You should not open debate on this matter. Let the Minister do what she always does and we proceed.

(Mrs. Ngilu handed over the handbag to the Serjeant-at-Arms)

(Resumption of Notices of Motions)

CRIMINALISING OF ECONOMIC CRIMES

Mr. Wamunyinyi: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, considering the fact that economic crimes have risen tremendously in the recent past; aware that this trend has had an enormous negative impact on the economy; cognizant of the fact that the existing laws have not helped in deterring the commission of these crimes; this House urges the Government to introduce a law to make economic crimes a capital offence.

Mr. Oparanya: Mr. Deputy Speaker, Sir, I beg to give notices of the following four Motions:-

WAIVER OF TAXES ON SUGAR

THAT, noting that COMESA's four-year safeguard measures affecting the local sugar industry expire on 29th February, 2008, and that the sugar industry shall be liberalized thereafter, this House urges the Government to waive taxes affecting the sugar industry for at least two years with effect from 2005/2006 financial year and put structures in places that will improve the fields of cane plant, efficiencies in local sugar milling factories and hence enable locally produced sugar to compete favourably with imported sugar for the benefit of the sugar-cane farmers.

ESTABLISHMENT OF TECHNICAL COMMITTEE ON MAIZE PRODUCTION

THAT, noting with concern that Kenya is a net importer of maize and that substantial foreign exchange is used in the importation of maize; conscious that maize is the staple food for Kenyan people, this House urges the Government to set up a technical committee of experts to come up with recommendations and actions plan on how this country can be self-sufficient in maize production and that the report on the findings of the technical committee of experts be tabled in this House within four months of its establishment.

ESTABLISHMENT OF AGRICULTURAL DEVELOPMENT FUND

THAT, aware that agriculture is the most dominant sector of Kenya's economy by virtue of its contribution to rural employment, food security and foreign exchange earnings, concerned that the growth and expansion of the agricultural sector has not kept pace with the needs of the population, realizing that inadequate funding to the sector by the Government has contributed to its poor performance, this House urges the Government to set aside 10 per cent of its annual budget towards the development of the agricultural sector.

ESTABLISHMENT OF NATIONAL DISASTER MANAGEMENT AUTHORITY

Cognizant of the country's past efforts in mitigating and minimizing the impact of disasters, aware that the National Disaster Operation Centre in the Office of the President lacks the capacity to effectively deal with all types of disasters; alarmed that Kenya has in the recent past been exposed to a variety of disasters such as fires, floods, drought and famine, leading to loss of human life, economic losses and environmental damage; noting the lack of a policy framework for an effective and

comprehensive disaster management strategy and preparedness; this House do grant leave to introduce a Bill for an Act of Parliament to establish an autonomous National Disaster Management Authority with the mandate and capacity to harness disaster preparedness and response.

Mr. Deputy Speaker: Next Order!

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Hon. Members, I agree with Mr. Sasura's request that we start with Question No.275!

Question No.275

STAFF ESTABLISHMENT OF MARSABIT COUNTY COUNCIL

Mr. Sasura asked the Minister for Local Government:-

(a) whether he could inform the House how many vacancies exist in the staff establishment of Marsabit County Council; and,

(b) when the vacancies, if any, will be filled.

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

(a) There are six vacancies in the staff establishment of Marsabit County Council.

Mr. Munya: On a point of order, Mr. Deputy Speaker, Sir. The Speaker made a ruling that we will start with Questions by Private Notice. It will be very difficult for hon. Members to know which Question will come first if we start with ordinary Questions. Some Questions have been dropped because hon. Members do not know which ones are asked first.

Mr. Deputy Speaker: Order, Mr. Munya! You do not decide on the order in which Questions are asked in this House. It is the Chair which does that.

Proceed, Mr. Kamanda!

The Assistant Minister for Local Government (Mr. Kamanda): Mr. Deputy Speaker, Sir, these posts are: Clerk to the Council, Scale 3; Treasurer to the Council, Scale 4; Accountant III, Scale 10; Administration Officer III, Scale 10; Revenue Officer II, Scale 9 and Revenue Salary Officer, Scale 12.

(b) There is a task force composed of officers from the Public Service Commission (PSC), the Department of Personnel Management (DPM) and my Ministry visiting councils throughout the country, verifying establishments in councils and making recommendations to the PSC to fill existing vacant positions with deserving, qualified officers. Marsabit County Council (MCC), among others, is programmed to be visited.

Mr. Sasura: Mr. Deputy Speaker, Sir, MCC has been operating in a unique manner. I do not believe that they follow rules and regulations, or even the Local Government Act in terms of employment procedures. Could the Assistant Minister tell us why the PSC always employs officers to MCC without advertising posts or going through the Ministry of Local Government? They recently sent a Treasurer from Nairobi City Council to MCC without first advertising the post.

Mr. Kamanda: Mr. Deputy Speaker, Sir, we have been having a problem with staff because we have a shortage of PSC staff to send to our councils. However, in the case of MCC, the

team from the PSC and my Ministry will go round and maybe promote these officers if they have the qualifications.

Mr. Bifwoli: Mr. Deputy Speaker, Sir, this Ministry has banned county councils and town councils from employing workers, even those who collect revenue from the streets. When will the Ministry lift this ban since they are not the ones paying salaries? County councils and municipalities are charged with this responsibility.

Mr. Kamanda: Mr. Deputy Speaker, Sir, the embargo will still remain because most of these councils, for many years, had over-employed and they are unable to even meet the salaries of the current staff.

Mr. Serut: Mr. Deputy Speaker, Sir, if there is any confused Ministry in this country, then it is the Ministry of Local Government. Throughout the country, they have no establishment for officers, neither do they have the strength. Will this Ministry come up with a proper establishment for local councils?

Mr. Kamanda: Mr. Deputy Speaker, Sir, it is true my Ministry was messed up for many years by the former regime. We are now trying to rectify those mistakes. We have already talked to the PSC and they are aware we need more than 300 officers to send to various councils in the country.

Mr. Sasura: Mr. Deputy Speaker, Sir, I do not want to engage in arguments with the Assistant Minister because he is aware of the mess that has been created by this Government since 2003 to date. However, that notwithstanding, if the team he is talking about goes to MCC, could he ensure that these posts are filled and priority given to existing staff in MCC who are qualified? He should not send officers from the headquarters.

Mr. Kamanda: Mr. Deputy Speaker, Sir, if they qualify and they have the necessary documents, they will be appointed to those posts.

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

Question No.064

NUMBER OF WEIGHBRIDGES IN KENYA

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

- (a) if he could inform the House the number of weighbridges in the country;
- (b) how much revenue is collected at these weighbridges annually;
- (c) if he is aware that these weighbridges are responsible for traffic congestion and destruction of roads, especially at Mlolongo along the Nairobi-Mombasa Highway;
- and,
- (d) if he could justify the existence of these weighbridges.

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

- (a) The number of weighbridges in the country is 12.
- (b) There is no revenue collected at weighbridges.

(c) I am aware that these weighbridges are responsible for congestion, especially at Mlolongo along the Nairobi-Mombasa Highway. However, I am not aware that the weighbridges are responsible for road destruction. To ease traffic congestion at peak times, at both Mariakani and Athi River weighbridges, my Ministry will procure weigh-in-motion systems this financial year, 2004/2005. Only vehicles detected to be overloaded after passing the weigh-in-motion systems will be subjected to weighing in the static weighbridges.

- (d) The weighbridges are in place in order to protect pavement damage occasioned by

overloaded vehicles. The road infrastructure being an expensive asset to the nation, must be protected against such damages.

Mr. Bett: Mr. Deputy Speaker, Sir, I thank the Minister for the answer. The word "mlolongo" is Kiswahili for queuing. It means that vehicles were on the road for a long time and people realised there was a queue, so they called this place Mlolongo. It is time-wasting. In fact, it takes a lot of time for vehicles belonging to flower farmers in Kajiado, Machakos and even **[Mr. Bett]**

hospital cases being referred to Kenyatta National Hospital (NHC) to move. Why could the Ministry not provide for weighbridges on both sides of the road to avoid the crossing of the road that brings about the queuing?

Mr. Raila: Mr. Deputy Speaker, Sir, I totally agree with the hon. Member. However, for the information of House, we are in the process of dualing the highway from Machakos turn off through Mlolongo up to Embakasi. We are now at the tender stage. We also plan to put another weighbridge on the other side of the road. In the meantime, we are procuring weigh-in-motion systems which will ease congestion. In other words, vehicles do not have to be weighed at Mlolongo. They will be weighed far away from Mlolongo so that congestion is eased.

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, since there is heavy traffic in Mlolongo, could the Minister consider diverting it so that queues move to the old Mombasa Road and only cross over to the weighbridge when there are fewer vehicles?

Mr. Raila: Mr. Deputy Speaker, Sir, traffic is actually being diverted to the weighbridges. It is only the vehicles that need to be weighed that are being diverted to the weighbridge. I have issued a gazette notice in which I have directed that trucks carrying goods which are already custom-sealed and are escorted by police, once they have been weighed at Mariakani, are exempted from further weighing along the road, for example, at Mlolongo, Gilgil or Webuye. This will help ease congestion.

Mr. Deputy Speaker: Hon. Members, because of time, I have to give Mr. Bett his last opportunity.

Mr. Bett: Mr. Deputy Speaker, Sir, the Minister says his Ministry will soon procure a weigh-in-motion system. What is a weigh-in-motion system?

Mr. Raila: Mr. Deputy Speaker, Sir, a weigh-in-motion system, as opposed to a static weighbridge, is one that is mobile. This bridge can be transferred from one side to another. It is not fixed; for example, the ones we have in Marikani, Mlolongo, Gilgil, Webuye and at the border. We have, for example, similar ones in Mai Mahiu, Thika Road and Mtwapa Bridge.

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

Mr. Deputy Speaker: Mr. Mwanicha, please, stop interrupting!

Mr. Raila: Mr. Deputy Speaker, Sir, those are the weigh-in-motion systems as opposed to static weighbridges.

Mr. Mwanicha: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to mislead the House that a mobile weighbridge is better than a static one when we know that, a vehicle weighed at Mariakani shows a different weight at Athi River?

Mr. Deputy Speaker: Order, Mr. Mwanicha! You are just trying to ask a question.

Mr. Mwanicha: Is he in order to mislead the House?

Mr. Deputy Speaker: No! That is not a point of order!

Next Question by Ms. Mbarire!

COLLAPSE OF CATTLE DIP SERVICES
IN THE COUNTRY

Ms. Mbarire is not here? Question dropped!

(Question dropped)

Question No.065

FINDINGS OF THE TASK FORCE
ON EXCESS VOTE

Mr. Ojaamong asked the Minister for Health:-

- (a) what were the findings of the task force appointed on 13th, March, 2003 to investigate the excess Vote reported by the Ministry of Health on recurrent budget Vote R11;
- (b) whether she could name the districts from which the Ministry officials claimed to have received the excess funds in (a) above; and,
- (c) what measures she is taking to recover the money that could have been misappropriated by the Ministry officials.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, "Boda Boda" is a very fast growing industry because it provides employment for the youth. It is also a cheap means of transport to many poor Kenyans. The Assistant Minister knows that in the Philippines, we saw an enhanced form of motorised transport where motorbikes are able to **The Assistant Minister for Health** (Mr. Konchella): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The following are the findings of a task force appointed to investigate the excess Vote by the Ministry on recurrent budget, Vote R11 in the 2000/2001 financial year. The excess Vote occurred as a result of excess reimbursement facilitated by Paymaster-General (PMG). It was also confirmed that the excess Vote was as a result of:-

- (i) Double-keying of expenditure in the district reimbursement systems
- (ii) Unusual credit balances in expenditure items as a result of introduction of unapproved Authority to Incur Expenditures (AIEs) in the PMG Vote Book.

However, copies of unapproved AIEs were not physically available at the PMG and also at the districts, but were in the PMG computer records. The PMG staff and district accountants in the affected districts could not explain the absence of the actual AIEs, nor produce any records to support their computer records.

(b) The districts which received excess Vote are as follows---

Mr. Deputy Speaker: How many are they?

Mr. Konchella: There are ten districts, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Go ahead!

Mr. Konchella: Mr. Deputy Speaker, Sir, they are Kiambu, Maragwa, Uasin Gishu, Trans Nzoia, Busia, Bungoma, Kitui, Laikipia, Marsabit and Garissa. The excess reimbursement was Kshs123,228,080.60.

(c) The report shall be handed over to the Kenya Anti-Corruption Commission (KACC) for further investigations and appropriate action.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, the Kshs123 million was just "eaten" by a few people in collaboration with the PMG. I am very happy that the Ministry of Health will hand over the report to the KACC for action. When will the Ministry hand over that report to KACC for action? The people of Busia and other districts are suffering and yet, records show that some of them got Kshs18 million and others Kshs50 million for facilities they never received.

Mr. Konchella: Mr. Deputy Speaker, Sir, this is the report. I will instruct the Permanent Secretary to hand it over to KACC immediately.

Mr. Ojaamong: Mr. Deputy Speaker, Sir, I am very satisfied. Thank you.

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

Question No.088

CYCLISTS TRAINING ON TRAFFIC RULES

Dr. Kibunguchy asked the Minister for Transport:-

- (a) whether he is aware that, "*Boda Boda*" bicycle taxis is an accepted means of transport in many parts of the country;
- (b) what measures the Ministry has put in place to

[Dr. Kibunguchy]

give cyclists training in road traffic rules; and,

- (c) what plans the Ministry has to introduce cyclists lanes on all roads countrywide.

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

(a) Yes, I am aware that bicycle taxis popularly know as "*Boda Boda*" are a means of transport in many parts of the country.

(b) The Traffic Act, Cap.403, governs the use of bicycles like any other mode of transport on our roads. In particular, Section 89 spells out the number of persons and load to be carried by bicycles. However, under the ongoing Road Safety Campaign, my Ministry intends to embark on vigorous education of cyclists on the Highway Code. In addition, the draft integrated National Transport Policy has made recommendations on training of cyclists under the non-motorized and intermediate means of transport.

(c) The Ministry is consulting with the Ministry of Roads and Public Works as well as the Ministry of Local Government on the modalities of having designated cyclist lanes, particularly in our towns, which is one of the recommendations in the draft Transport Policy.

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. As we know, "*Boda Boda*" mode of transport is a very fast-growing and vibrant industry. It has employed many young men in many parts of this country.

An hon. Member: Where?

Dr. Kibunguchy: Many parts. Almost all parts of this country. When the Assistant Minister quotes Traffic Act, Cap.403, how many of those young men understand that?

Mr. Ligale: Mr. Deputy Speaker, Sir, I have said that we are embarking on a campaign to train cyclists to understand the Highway Code in various part of the country.

Mr. Mwandawiro: Bw. Naibu Spika, je, Waziri Msaidizi ametosheka kwamba kuna barabara za kutosha ili kuhakikisha usalama wa waendeshaji wa baiskeli?

Mr. Ligale: Mr. Deputy Speaker, Sir, I am not satisfied!

Ms. Mwau: Mr. Deputy Speaker, Sir, handcarts or *mikokoteni* in this City are a major cause of accidents. What is the Ministry doing to streamline that industry?

Mr. Ligale: Mr. Deputy Speaker, Sir, *mikokoteni* are not recognised as a means of transport. The City Council or any other local authorities should regulate their use. Indeed, they are a major hindrance on our roads.

carry more than three or four people. Could the Assistant Minister tell us what plans they have to bring such modes of transport to Kenya as well?

(Applause)

Mr. Ligale: Mr. Deputy Speaker, Sir, we will encourage private enterprise to come up with similar modes of transport in this country.

Mr. Deputy Speaker: Last question, Dr. Kibunguchy!

Dr. Kibunguchy: Mr. Deputy Speaker, Sir, does the Assistant Minister have any idea of how many young men are employed in that industry at the moment?

Mr. Ligale: Mr. Deputy Speaker, Sir, I will do some homework on that and come back with an answer.

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

Question No.249

CLOSURE OF SAWMILLS IN
MOLO CONSTITUENCY

Mr. Mukiri asked the Minister for Labour and Human Resource Development:-

(a) whether he is aware that since the closure of many sawmills in Molo Constituency, especially in Elburgon Division, many young people have been rendered jobless; and,

(b) what the Government is doing to create employment in Elburgon Division to absorb the youth.

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

(a) Yes, I am aware. On realisation that there was wanton destruction on the area's forest cover, the Government was forced to cancel the licences of the sawmills in question.

(b) It is, and it has remained the Government's responsibility to provide an enabling environment that ensures that all the youth of this country are engaged in gainful employment. To this effect, the Government has developed a youth policy and together with stakeholders, is currently working on a youth employment creation initiative programme that will address their employment predicament.

My Ministry is at an advanced stage of producing a comprehensive report on this issue. It is envisaged that when this programme is concluded, respective constituencies will be able to allocate some of the Constituency Development Funds (CDF) to promote the projects.

Mr. Mukiri: Mr. Deputy Speaker, Sir, the second part of the answer does not address the Question that I asked. I would refer to it as useless. I asked a specific question and wanted a specific answer. In Elburgon Division, the Government has closed close to ten sawmills. If you go to that town now, you will find that many youths are living in desperation and families have been destroyed. What is the Government doing to create employment after closing the sawmills and

allowing other companies to harvest timber? The Assistant Minister is saying that there is a Policy Paper which involves stakeholders. Could he address the question?

Mr. Khalif: Mr. Deputy Speaker, Sir, first of all, I would like to appreciate what the hon. Member is saying. The issue of unemployment is of national concern. Regarding what the hon. Member is insinuating concerning the closure of the sawmills, my response is that, on realisation that there was wanton destruction of the area's forest cover, the Government was forced to cancel the licences of the sawmills in question. I do not see why the hon. Member should raise concern over unemployment in connection to this.

Mr. Kipchumba: Mr. Deputy Speaker, Sir, the fact that these sawmills were closed has not helped to save the forest cover. Indeed, all the big companies continue to destroy the forests. Could the Ministries of Labour and Human Resource Development and that of Environment and Natural Resources consult, so that our youth can get employment immediately?

Mr. Khalif: Mr. Deputy Speaker Sir, I will look into the issue and do what is expected of us.

(Laughter)

Mr. Bifwoli: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has not answered the question. The question is: It is the Government which closed the sawmills; what other employment alternatives has it given? He has not answered that.

Mr. Deputy Speaker: Order, Mr. Bifwoli. If the Assistant Minister has not answered the question, ask another one. Do not interrupt on a point of order. You are out of order. Please, sit down.

Prof. Mango: Thank you, Mr. Deputy Speaker, Sir. In this country, the problem of youth unemployment is a time bomb. Could the Assistant Minister tell us what plans he has to employ the youth in this country?

Mr. Khalif: Mr. Deputy Speaker, Sir, there are many ways of tackling the problem of unemployment. The best way of tackling it is through having proper policies.

(Applause)

The Government has developed a Sessional Paper on Employment Policy and Strategies for Kenya, to provide framework for employment creation. This has been approved by the Cabinet and is at the Government Printer, scheduled for discussion in this House as Sessional Paper No.7.

Mr. Mukiri: Mr. Deputy Speaker, Sir, I sympathise with the Assistant Minister because he is just reading within the four corners of the written response he was given by the Ministry officials. As he answers this Question, we have multinational companies which are not owned by indigenous Kenyans that are harvesting timber within Elburgon Division. I would have expected the Assistant Minister to tell us that he would allow the African sawmillers to harvest timber.

Mr. Deputy Speaker: Can you now ask your question?

Mr. Mukiri: Mr. Deputy Speaker, Sir, could he assure this House that he will allow Kenyan sawmillers to harvest timber within Elburgon Division?

Mr. Khalif: Mr. Deputy Speaker, Sir, I cannot give such assurance because I have already said that on realisation that there was wanton destruction of the area's forest cover, the Government was forced to cancel the licences of the sawmills. Therefore, there is nothing I can do about it.

QUESTIONS BY PRIVATE NOTICE

MISAPPROPRIATION OF FUNDS
IN NYARENDA PRIMARY SCHOOL

Prof. Olweny: Mr. Deputy Speaker, Sir, I beg to ask the following Question by Private Notice.

(a) Is the Minister aware that funds allocated under the free primary education programme in the current financial year in Nyarenda Primary School in Nyando District have been misappropriated?

(b) Could he inform the House how much money was misappropriated and the amount which has been recovered?

(c) Could he further inform the House the officers involved in the misappropriation and action taken against them?

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

(a) I am aware that Nyarenda Primary School was allocated Kshs309,775 during the financial year 2004/2005.

(b) I am also aware that the headmaster has misappropriated some amount. Out of the Kshs309,775, the headmaster misappropriated Kshs33,006 and Kshs3,500 has already been recovered from him after he accepted the liability.

(c) Preliminary findings revealed that the officer involved was the then head teacher of the school, Mr. Samuel Ouma Akinyi, TSC No.166064. The officer was demoted on 10th January, 2005, and posted to Ango'ng'o Primary School. Later, he was interdicted and I have ordered a full audit of the finances of the school. He has also agreed to pay the same.

Prof. Olweny: Mr. Deputy Speaker Sir, this school has had its money misappropriated twice; in the last financial year and this one. In the last financial year, a headmaster was interdicted from that school, this year, the same thing has been done. You have talked about one headmaster. What about the previous one? I am interested in knowing how much money the previous headmaster returned and what action was taken against him.

Mrs. Mugo: Mr. Deputy Speaker, Sir, this is a completely different question. If there is a second misappropriation, then it will also be dealt with. But I answered the first Question you asked.

Eng. Karue: Mr. Deputy Speaker, Sir, whereas the whole country is very happy about the free primary education programme, there are some aspects of it which should be revised. For example, misappropriation of funds is taking place because there is very little information going out from the Ministry to stakeholders. By the time parents or hon. Members from different areas get to know there is misappropriation of funds in a school, already, too much has happened. Could the hon. Assistant Minister consider publishing how much money is going to which school and when, so that when there is misappropriation of funds or when there is need for hon. Members to follow up, they have figures to go by.

Mrs. Mugo: Mr. Deputy Speaker, Sir, this money for free primary education is given on capitation of the pupils. So, it depends on how many pupils are in a school at that particular time. Each child receives a certain amount. However, if the hon. Member of Parliament is interested to know, that information is already with the District Education Officer (DEO) and the school. We also took a further step and trained the Parents-Teachers Association (PTA). This committee is supposed to run the money together with the headmaster. It is not that we just send the money to the headmaster. We are working towards stamping out corruption absolutely. We have done a very good job because it is working in many of the 17,000 primary schools. It is only in isolated cases

where we have had problems. When we hear about them, we follow them very quickly, recover the money and interdict the teachers.

Prof. Oniang'o: Mr. Deputy Speaker, Sir, we want to laud the free primary education but, unfortunately, for the headmasters to be able to manage a very complex accounting system they are not used to, it means that they can no longer teach and yet they are part of the total number of teachers in every school. Could the Assistant Minister consider sending accounting officers to the primary schools and, therefore, creating jobs and in the process, leaving the headmasters to go on with teaching?

Mrs. Mugo: Mr. Deputy Speaker, Sir, that is an added burden on the finances allocated to the Ministry. At the moment we are grappling with shortage of teachers due to lack of finances to employ them. However, I want to assure the hon. Member that she has a good suggestion and when this House allocates us enough funds we will be able to do that. However, at the moment, I want this House to rest assured that the money is well taken care of. It is only mismanaged in very isolated cases and they are all being addressed. The PTA committees on the ground are very supportive and well-trained. You just find one headmaster going haywire and misappropriating funds and this happens everywhere, but we are very carefully monitoring the usage of this money.

Prof. Olweny: Mr. Deputy Speaker, Sir, the Assistant Minister said that the PTA members on the ground are trained. Well, at least, I do not know about that. Could she tell this House the programmes that the Government has for training the PTA members for the transparent management of the school funds because I have not heard about that training in my constituency?

Mrs. Mugo: Mr. Deputy Speaker, Sir, most of the members of the PTA committees have been trained because we did that at the very beginning when we started sending the money. If that particular PTA school committee is not trained, I will definitely look into it. We also have a lot of inspectors on the ground after we gave them bicycles and motorbikes. Every DEO has a vehicle and is able to move. They did not have cars before. So, inspections are carried out.

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

Mr Deputy Speaker: No, Mr. Oparanya. Next Question by Private Notice by Mr. Angwenyi!

SURGE OF TYPHOID CASES IN THE COUNTRY

Mr. Angwenyi: Mr Deputy Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that there has been an alarming surge of typhoid cases in the country and especially Kisii, Rachuonyo, Bungoma and Kiambu districts?

(b) What immediate measures is the Minister taking to fight this deadly but preventable disease?

(c) Could the Minister initiate a massive countrywide vaccination programme against typhoid as a long-term prevention measure?

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

Before I reply, I would like to bring to your attention and that of Parliament that you may not be aware, but the African Parliament has allowed women to carry bags into the Chamber.

(Applause)

Mr Deputy Speaker: Order, Minister! You know you are an old Member of this House and you know this House is run by its rules. It is not run by the rules of other parliaments. You

know that. So, please, proceed and answer the Question.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! We are not opening a debate. Minister, please, answer the Question.

The Minister for Health (Mrs. Ngilu): Thank you, Mr. Deputy Speaker, Sir. We are also a member of the Commonwealth Parliament and we do not have to go by foreign parliaments. We can go by our own rules as an African Parliament and, therefore, in future I will be carrying my bag into the Chamber.

(Laughter)

Mr. Deputy Speaker: Order! I am very aware of what is happening. However, you elected me here to administer the rules as you made them. If you change the rules today, there is no problem but, please, let us not introduce issues which are not necessary. Please, answer the Question.

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

(a) I am aware that there has been a typhoid outbreak in Bungoma District since March, 2005, and this has affected two secondary schools and the local community in Kimilili Division, Bungoma District, with a total of 184 cases admitted and very sadly, five deaths have been reported so far. In Kisii, there have also been 206 cases reported in the last three months. The outbreak is now under control in Rachuonyo and Kiambu districts and there has been no upsurge reported in other districts. The Ministry is also aware that there is over-diagnosis of typhoid cases in the country.

(b) The affected districts have been given support in terms of drugs, funds and other medical supplies to curb the upsurge. All confirmed cases have been managed appropriately. The Ministry has been carrying out mandatory medical examinations of all food handlers in the country, community health education on typhoid, fever prevention and control measures; educating the public regarding the importance of personal hygiene, safe drinking water, proper disposal of human waste, proper food preparation and handling, and the Ministry of Health is working very closely with the Ministry of Water and Irrigation and the Ministry of Local Government on water treatment by chlorine products and provision of safe water as a long-term measure.

(c) No, vaccination against typhoid is not a long-term preventive measure. Even after the vaccination, one can still contract typhoid fever. Therefore, personal hygiene coupled with safe drinking water and safe food are key preventive measures.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I thank the gracious and defiant Minister for a very good answer. However, I thought that she would have addressed the issue of non-performance, especially of public health departments in her own Ministry and the Ministry of Local Government. She has said there are 206 cases in Kisii alone. In Kisii, there are many deaths arising from typhoid because of polluted water and unhygienic conditions for sale and consumption of food. Could she categorically state here today that she will revive public health services throughout the country, to address the issue of these typhoid cases?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, could the hon. Member repeat the question because I did not hear it?

(Laughter)

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the upsurge of typhoid cases in this country arises

mainly because of non-functional public health services in the country. Could the Minister categorically state here today that she will revive efficient services of public health in her Ministry? Could she also urge the Ministry of Local Government to ensure that the departments dealing with public health are revived?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, yes, we have instructed our public health officers to continuously educate people. But the problem that we have in those districts is water. We have worked very closely with the Ministry of Water and Irrigation to ensure that water is properly treated and that this does not recur. This is not the first time. It also happened last year in Chesamis. When we did our investigations, we found that people were taking contaminated water.

Dr. Ali: Mr. Deputy Speaker, Sir, the Minister says that there is over-diagnosis of typhoid. Could she tell us what is the cause of the over-diagnosis? Is she telling us that her staff are inefficient and they do not know how to diagnose typhoid?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the Ministry actually is treating the social determinants of health. We are treating the symptoms of a problem when people take contaminated water. So, ours is to ensure that people understand. We are educating them. Otherwise, this has been the problem of the Ministry of Water and Irrigation, and we have worked very closely with them. In fact, the information that I just received as I sat next to my colleague, Dr. Kituyi, is that the chlorine that was used by the Ministry of Water and Irrigation officer in that place had expired. That may have been the reason. I hope the officer has been transferred.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, since this problem has recently been felt very seriously in Bungoma District, could the Chair allow me to give Mr. Bifwoli the chance to ask the final question?

Mr. Deputy Speaker: Mr. Angwenyi, do you have a question?

Mr. Angwenyi: Mr. Deputy

[Mr. Angwenyi]

Speaker, Sir, this has happened before. Yesterday, hon. Members were allowed to give out their chances.

Mr. Deputy Speaker: Order, Mr. Angwenyi! The way you are doing it is not right. Mr. Bifwoli stood up and I declined to give him a chance. Therefore, you cannot now say he is the one to ask a question on your behalf.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, let me ask a question now.

Mr. Deputy Speaker: All right, go ahead!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Minister states in her written answer that vaccination is not a solution. But she further states that if they apply Typhim VI vaccine, it can protect an individual for three years. Could she, therefore, undertake a mass vaccination exercise using this type of vaccine throughout the country so as to save our people from this killer disease?

Mrs. Ngilu: Mr. Deputy Speaker, Sir, it is easier and cheaper to prevent than to treat diseases. It costs only two shillings to purify 100 litres of water. This is what should be done as opposed to us imagining that we can do vaccination and save people. This is what I want to propose.

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

Is Mr. Muriungi not here?

An hon. Member: Yes!

Mr. Deputy Speaker: If he is not here, his Question is dropped.

(Mr. Muriungi) to ask the Minister for Lands and Housing:-

- (a) Is the Minister aware that the body of Mr. Karuma Ibui of Maili Tatu, Antubeiga Location, who died on 25th January, 2005, is still lying in Meru District Hospital as it cannot be buried on his family land, LR No. Njia/Burieruri/1784, which was irregularly transferred to one Mr. Patrick Gitonga Makutho?
- (b) What urgent measures is the Minister taking to ensure Mr. Karuma is given a decent burial by his family on his land?

(Question dropped)

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

NON-PAYMENT OF WORKERS' SALARIES BY COMPANIES IN SUBUKIA CONSTITUENCY

Mr. Wamwere: Bw. Naibu Spika, naomba kumuuliza Waziri wa Kazi Swali Maalum lifuatalo.

(a) Waziri anajua ya kwamba makampuni ya Ceres Limited, Ngenda Farm, Banita Sisal Estate na Ampiva Limited, katika Subukia na Rongai yamekataa kuwalipa wafanyakazi mishahara yao kwa miaka zaidi ya mitano?

(b) Waziri ana habari kwamba wafanyakazi wa kampuni ya Ceres Limited wamekuwa wakiandamana na kuzusha fujo wakitaka kulipwa mishahara yao?

(c) Waziri ana habari pia kwamba kuna mpango wa kuliiza shamba la Ceres Limited bila mipango ya kulipa wafanyakazi mishahara yao na kuwatengea ardhi ya makao kabla ya shamba kuuzwa?

(d) Waziri ana mipango gani kuhakikisha mishahara inayodaiwa makampuni yaliyotajwa imelipwa mara moja?

The Assistant Minister for Labour and Human Resource Development (Mr. Khalif): Bw. Naibu Spika, ningeomba Bunge hili liniwie radhi nilijibu Swali hili Jumanne wiki ijayo.

Mr. Deputy Speaker: Mr. Wamwere, do you have any objection to that?

Mr. Wamwere: Bw. Naibu Spika, kama Swali hili litajibiwa Jumanne, ni sawa. Hata hivyo, Waziri Msaidizi ahakikishe ya kwamba atazuia mambo haya yote yanayoendelea hivi sasa.

Mr. Deputy Speaker: Hilo Swali limeairishwa hadi Jumanne wiki ijayo.

(Question deferred)

Hon. Members, that is the end of Question Time. We will now move to Ministerial Statements.

Proceed, Dr. Kituyi!

MINISTERIAL STATEMENT
THE STATUS OF THE WTO NEGOTIATIONS

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, about two weeks ago, the Member of Parliament for Kitutu Chache Constituency sought a Ministerial Statement on the status of negotiations in the Doha Round of the World Trade Organisation (WTO). I sought the indulgence of the Chair that I make a comprehensive statement. Unlike other statements

I have presented before this House, I have done fairly detailed accounts of all the thematic areas of the Doha round, the negotiated solutions so far, outstanding issues, the contribution of the Mombasa mini-ministerial in breaking deadlock, the agenda for the mini-ministerial which will be held on the margins of the OECD Ministerial next week in Paris. It also deals with the projected preparation of the first approximation on the first draft for the Hong Kong Ministerial Statement by July and the position of Kenya on all the thematic issues. Rather than read the whole of this Statement with all its 21 pages, I would like to lay it on the Table so that the hon. Members may read.

(Dr. Kituyi laid the document on the Table)

Mr. Deputy Speaker, Sir, if I may just add two or three words, I wish to thank hon. Members, and Kenyans at large, for the contribution they made in us hosting an extremely successful, first ever Mini-ministerial of the WTO in East and Central Africa, which was held in Mombasa. The stature of Kenya was substantially buttressed, not only by the fact of hosting that Mini-ministerial, but for the first time in the history of WTO and even GATS, we are chairing the General Council. The Kenyan Ambassador in Geneva, Ambassador Amina Mohammed, is the first African woman ever to chair the General Council. She is chairing at a time when she is the key player in the recruitment of a new Director-General of WTO, and she accords us the privilege that we will be in the chair of WTO during the Hong Kong Ministerial meeting, which is a critical watershed of the Doha round negotiation.

Mr. Deputy Speaker, Sir, I want to finish by mentioning that one of the fundamental positions that Kenya is pushing during the Doha Round negotiations is that we do not subordinate development to negotiating trade liberalisation. We do not develop so as to trade. We try to trade so as to develop. All efforts to liberalise trading regimes which are inconsistent with the desires of development are inconsistent with our diplomatic and national interests.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I would like to seek a clarification from the Minister. But, first, I thank him for that detailed document. Although I have not seen it, I am sure he is a very effective Minister. I am sure he has all the information that I want to seek

[Mr. Angwenyi]

clarification on. But let me ask you: How have you enlisted the support of this Parliament in your activities on multi-lateral negotiations?

Secondly, what part do Non-Governmental Organisations (NGOs) play in the success of multi-lateral negotiations on trade? Why were they demonstrating during the Mini-Ministerial Conference in Mombasa?

Thirdly, you have just stated that our gracious lady in Geneva has been appointed the Chairperson-General for the next one or two years. But the Government has appointed a new ambassador to Geneva to replace her. Were the people appointing the new ambassadors not aware of that development?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, those are very pertinent questions. First of all, I have continuously sought the engagement of Members of the relevant Departmental Committees of this House on different stages of negotiations in multi-lateral trade rules making, both on the economic partnership agreement with the European Union (EU) and ACP, and on the Doha Round World Trade Organisations (WTO) negotiations. I am glad to mention that, at the international fora where we have participated with the representatives of that Committee, they have stood out as extremely well informed and competent representatives of Parliam

ent in the negotiations. Secondly, I have hosted retreat for Members of the relevant Committee of Parliament on multi-lateral trade negotiations, at which we have brought them up to speedily on what our thinking has been, and even sought their suggestions on how best to firm up the national negotiating position.

Thirdly, I have it on notice with the Speaker that, my Ministry, with the support of KEPLOTRADE - a EU-funded trade capacity building programme - would like to have a retreat of all Members of the National Assembly to discuss critical concerns in trade negotiations that are relevant for legislators.

Mr. Deputy Speaker, Sir, regarding the second question about NGOs, we have a contradiction there. Internationally, NGOs are split between groups which are anti-globalisation lobbyists. They do not want anything to do with WTO going on. There are groups which are against uncontrolled liberalisation. They want to strengthen the hand of weaker countries to make them better negotiators for a fairer regime in a global village. In this country, more than any other country in the world, all major NGOs which are interested in strengthening the position of Kenya in multi-lateral trade negotiations are members of national consultative forums, through which we streamline our negotiating positions. What happened in Mombasa was very strange. NGOs which are rejected from participating in the formal process usually prepare the memoranda and either demonstrate or leave them out on the fringes of multi-lateral ministerial meetings. But the Kenyan ones sit with my officers, prepare the Government position and then join anti-globalisation groups which want to disrupt the possibility of presenting their views to other Ministers. My position was that they had to choose what they want to be. Either they want to be activists shouting at the conference, or they want to be consulted and sit on the forum creating national policies and encourage us to present that policy in the negotiations.

(Applause)

Mr. Deputy Speaker, Sir, regarding the third question, when I heard about the appointment of my friend and former schoolmate, Ambassador Owade as the Deputy Head of Mission in Geneva, I got anxious because I know that the Chair of the General Council of WTO is appointed as a person. They assess your competence and personal ability to deal with other members there. Ambassador Amina has phenomenal high reputation in Geneva, particularly in WTO.

(Applause)

Mr. Deputy Speaker, Sir, when I sought from the relevant Ministry to clarify the position, I happily learned that Ambassador Owade's appointment was a personal promotion. It did not make him the head of the mission. Ambassador Amina retains her position, at least, until after the Hong Kong Ministerial Meeting.

Mr. Bahari: Mr. Deputy Speaker, Sir, one of the key themes that is taking prominence in the 21st Century is sustainable development. One of the cornerstones of sustainable development is eradication of poverty through fair trade. What is the Minister doing to ensure that issues of fair trade are articulated properly within the right forum.

Mr. Munya: Mr. Deputy Speaker, Sir, if you look at most of the rounds that have been negotiated, the developing countries have always been losing out. Even now, you can see that the developed countries are ticking out and insisting that the agricultural subsidies that they continue to give their farmers will still remain. They are not giving any openings for our agricultural products in their markets. What is the Minister doing to make sure that the Third World negotiates as a block to benefit from those organisations which have been making us lose out since they were started?

The Minister for Trade and Industry (Dr. Kituyi): Mr. Deputy Speaker, Sir, the WTO is not a development organisation; neither was it set up to deal with poverty problems! WTO is a vehicle for proliferation of new forms of international trade. Having said that, we cannot run away from the reality that it has become the international ministry of finance. It has overtaken the International Monetary Fund (IMF) on that responsibility. Our challenges are: How do we slow down the processes of multi-lateral liberalisation and build domestic capacity not to be totally wiped out by globalisation? Therefore, our negotiating position is not to save WTO. We do not expect them to fight poverty. That is not their mandate. They are trying to create wealth for the rich. But we are trying to see how we can use rules and build powerful lobbies in international negotiations to strengthen our hands to ameliorate the consequence of globalisation.

Mr. Deputy Speaker, Sir, what have I done in that regard? First, I have helped to create the G90 Lobby for the less developed countries. It has been an effective force in slowing down some of the more deleterious consequences of globalisation, like the suspension of the key components of the Singapore agenda after Cancun.

Mr. Deputy Speaker, Sir, secondly, I have been able to contribute, through the hosting of two critical consultations in Mombasa, to have the suspension of any new obligations on the part of African countries in the current round. That means we are not going to make any concessions on greater market access. We are not going to reduce tariffs in agriculture and manufactured goods in the Doha Round Meetings.

Mr. Deputy Speaker, lastly, some of the measures we have to take to discipline trade to fight poverty go beyond the WTO. For example, I have an appointment with the Trade Commissioner of Europe early next week and my critical concern will be: Can we reduce the conditionalities for Kenyan manufactured textile to access European markets in a way to compensate for the erosion of our access to the American markets since the end of the Multi-Fibre agreement. I continue to engage hon. Members and will be interested to find the best way possible to strengthen our hand in the face of very hostile forces of globalisation.

Mr. Deputy Speaker: Very well. Next Order.

MOTIONS

INTRODUCTION OF SEXUAL OFFENCES BILL

Ms. Ndung'u: Mr. Deputy Speaker, Sir, I beg to move the following Motion:
THAT, in view of the unprecedented and shocking rise in the crimes of rape, incest and other sexual offences; concerned that most rapes occur during the course of other serious crimes; concerned that everyday women and girls are the primary victims of this terrible violence; further aware the current law does not protect all persons including men and boys from this heinous act; aware of the increase of paedophiles targeting victims who are small children and increase of sexual deviants who target mentally challenged persons; concerned that the punishment of sexual crimes is often lenient and does not serve to rehabilitate offenders; convinced that the punishments and deterrents to these crimes must be enhanced; this House grants leave to introduce a Bill for an Act of Parliament entitled "The Sexual Offences Bill", to clearly define offences of a sexual and violent nature including rape and sexual violation of all persons including women, men children and mentally challenged persons, and to further enhance punishment and deterrent effect of such offences to include minimum sentencing for first offenders and appropriate medical

treatment for repeat sexual offenders, paedophiles and sexual deviants.

Mr. Deputy Speaker, Sir, I am seeking this leave with particular regard to the shocking rise of rape, incest and other sexual offences in Kenya today. Rape and assault have become incidental to other crimes. In cases where you have car and *matatu* jackings, and robberies, the element of rape is always there. Unfortunately, rape is now becoming an element of other crimes. It is not becoming a crime aggravated by other crimes. Rape is also frequently underrated and misunderstood because people think it is about sex.

Mr. Deputy Speaker, Sir, I wish Parliament to understand that rape is actually a crime of power and violence, and sex has nothing to do with it. The extent of this problem is so serious that sexual predators are having a field day on men, women, children, mentally challenged persons and old people.

The statistics relating to this crime are quite serious that the Commissioner of Police has even set up preventative measures such as the "Spider Squad". Just last year, there were official reports of 2,308 reports of rape which make it second only to robbery and assault cases in this country. Even cases of manslaughter and carjacking do not occur as much as incidents of rape.

Mr. Deputy Speaker, Sir, unfortunately, many victims of rape either never report it because of the stigma; social embarrassment or for the simple reason that the law is so insensitive in the way it treats victims of rape.

Prof. Mango: On a point of order, Mr. Deputy Speaker, Sir. Could the Mover be allowed to move the Motion from the Dispatch Box in view of the importance---

Mr. Deputy Speaker: Order! You are completely out of order because all Motions are important. There is no Motion that should be moved from the Dispatch Box and others from Back Bench. All Motions are important, and in any case, there are rules governing the use of the Dispatch Box.

Proceed, Ms. Ndungu!

Ms. Ndung'u: Mr. Deputy Speaker, Sir, I was saying that victims of rape normally do not report either because of ignorance, social stigma or because the law makes it so difficult for them to report. The real statistics are those that we are able to compile from community based organisations in hospitals. Last year it was estimated that at least 16,482 rape incidents occur every year in this country. This translates into a rape occurring at least every half hour.

Mr. Deputy Speaker, Sir, most victims of rape in this country are women, girls or boys under the age of 15 years. In the Kangemi slum, here in Nairobi, 70 per cent of the women who were interviewed confirmed that they had been raped and that all the rapes took place mostly when they were under the age of 18. Most of these women are attacked as they walk from work, or girls, as they walk back home from school. Only this year we saw on television, a show that highlighted how girls in a primary school in Kimathi Estate in Nairobi were being molested by boys from a neighbouring primary school on their way home.

There is also need to recognise a new and bolder category of sex criminals in this society called the paedophiles. A paedophile is a person who preys only on children. This is a person who knows how to wait for children from school. This is a person who offers children sweets before he rapes them. This is now very common in this country.

Mr. Deputy Speaker, Sir, most of the victims nowadays are also babies. Last year, the Nairobi Women's Hospital admitted a five-months old girl who had been raped. The damage done to this girl's body, her life and family is something that cannot even be spoken about. When the women hon. Members of Parliament first visited the Nairobi Womens Hospital two years ago, we saw what had been done to a four-year old, a six-year old and an eight-year old in a space of ten

days. It was so traumatic for us. Can you imagine the trauma that, that child and the parents undergo? Sexual violence has many consequences. People go through depression. It can result into infertility, disability, HIV/AIDS, suicide and death.

As we fight the toll of HIV/AIDS on the population of this country, we have to face the facts that three out of 10 rape victims are infected by their rapists. This means that rape has become a death sentence. It is destroying individual victims as well as their families. What kind of a monster does this kind of thing? Why is society not able to punish them? Knowingly or unknowingly, Kenya is becoming a nation where we are allowing rapists to go free.

Ms. Mwau: On a point of order, Mr. Deputy Speaker, Sir. We cannot hear clearly what the Mover of the Motion is saying because there is a lot of noise.

Mr. Deputy Speaker: Order! There are high tones of consultation. May I ask hon. Members to lower their tones. Proceed, Ms. Ndungu!

Ms. Ndung'u: Thank you, Mr. Deputy Speaker, Sir. Most children are molested by people they know, but are too scared to report. The resistance to sex education and family life education has resulted in children's ignorance, knowing about their bodies and recognising that something terrible has happened to them so that they can report to their parents or care givers. Therefore, the monster is walking freely. This is now creating a culture of impunity in this country, where you can get away with rape. Last year, we saw a case of a young man who committed suicide because he discovered that a woman that he had gang-raped with six others was HIV positive. Both the attitude of the young man who committed suicide and the reporter who wrote the story were concerned about **[Ms. Ndung'u]**

the suicide. Nobody followed up to find out what happened to the woman who was gang-raped.

Last year, in Murang'a, a serial rapist was subjected to mob justice after he raped and killed a seven-year old. When the villagers were asked why they committed mob justice, they said that they knew that this man normally preyed on young girls but that they were angry with him because this time he had killed. So, that is the kind of society we have, where it is not okay to kill, but it is okay to rape. These are the sort of things that we need to address as I try to bring this new law.

Mr. Deputy Speaker, Sir, the current laws affecting rape and sexual assault are part of the problem. The current laws are spread through the Penal Code, Criminal Code and Evidence Act. Notably, these offences are referred to as offences against morality, which is different from offences against a person. An offence of murder or assault is an offence against a person. But rape is an offence against morality. This clearly shows that we still have a victorian kind of base within our laws which are old and archaic. In fact, our Penal Code was enacted in 1930 and there have been very few piecemeal changes done to it to improve the definition of rape.

Currently the maximum sentence for rape or attempted rape is a life sentence with hard labour. However, it is hardly ever applied because magistrates have the discretion to give anything up to the maximum. There is no minimum sentence. Early this year, we saw a magistrate in Kisii let off a rapist with a suspended sentence for raping a young girl. No matter how outrageous it appears, under the law, he is within his powers. As the law stands today, it stands in conflict with other Acts of Parliament, like the Children's Act which clearly states that a child is a person of less than 18 years. If all the laws relating to sexual violence presumed that a girl of 14 years old is mature enough to have sex yet this girl is not presumed mature enough to get married, this is clearly misplaced.

Mr. Deputy Speaker, Sir, also, this attitude is clear in the presumption that men and boys cannot be victims of rape. To date, male victims cannot find justice or relief under the current law. Many boys and men are regularly sodomised, and they are mainly male victims of carjackings. They cannot go anywhere because they are not covered under the law. Another problem with the

current law is the Evidence Act, where the burden of proof is on the victim and does not provide any privacy. The humiliation during trial and prosecution is on the victim and not the offender.

This discourages victims from pursuing justice. Further, victims of sexual assault must first take themselves to the police station to pick up the P3 Form before they go to hospital to be treated. This is a way of discouraging people from reporting sexual assault to the police and having the offenders punished. It is, therefore, clear that there is need to amend the laws and put all the laws together in one Act, so that we can deal with these matters comprehensively.

Mr. Deputy Speaker, Sir, in a nutshell, the proposed Sexual Offences Bill will enable Parliament to achieve the following: Address the current rising problem of rape and sexual assault, by introducing comprehensive reforms with regard to sexual assault and rape; re-define the crime of rape to include paedophilia, aggravated rape and male on male rape; revise the age of consent of rape, statutory rape, and re-define consent in itself, which can be very controversial.

The proposed Bill will also provide for medical services for rape victims, including the treatment with anti-retroviral drugs and emergency contraception. It will provide for easier police reporting and for trials to be held in camera. The proposed Bill will also provide for methods of post-conviction monitoring of repeat offenders and sexual predators, so that the community can know when they have high risk offenders living within their communities and know how to protect their children.

Mr. Deputy Speaker, Sir, further, the Bill will provide for enhanced punishment and deterrence measures to offenders. It will also introduce minimum sentences, particularly for cases affecting children and vulnerable groups. For instance, if somebody is convicted of raping a child under the age of 18 years, we could provide a maximum sentence of 30 years. If the assailant is a first offender, in order to deter him, we could provide for him a minimum sentence of 10 years. We should do away with the provision of levying a fine on a person who has committed rape. This new Bill needs to introduce minimum sentences.

Finally, this Bill should also provide for medical treatment for offenders, including counselling and psychotherapy to ensure that they do not repeat the offence.

Mr. Deputy Speaker, Sir, Parliament needs to support this Bill because it is comprehensive, fair and an enlightening legislation that will effectively combat the rape epidemic sweeping across the country. The protection of the public from dangerous and sex offenders is a priority for this Government and the House. Every hon. Member knows how serious this problem is in his or her constituency, and knows that the enactment of this proposed Bill is the way forward.

Apart from being a progressive national law, this Bill will ensure that the Government of Kenya has began the process of implementing its international obligations with regard to sexual crimes as it is a signatory of the International Criminal Court Convention and other human rights conventions and treaties, which are designed to protect persons from this kind of sadistic behaviour.

I have been able to study several sexual offences laws from different Commonwealth countries and other parts of the world in order to devise the format of the proposed Bill. The preparation of the Bill will be done in consultation with experts from the Attorney-General's Chambers, the Law Reform Commission, the Ministry of Justice and Constitutional Affairs and Women and Children's Rights NGOs before it is published and brought to this House.

At this stage, I wish to thank the Attorney-General for his support in lending experts and technicians in trying to develop the proposed Bill, which we will bring to the House once the House grants leave.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move and ask Mr. Sasura to second this Motion.

Mr. Sasura: Mr. Deputy Speaker, Sir, I stand here very proudly to second this Motion.

Let me begin by thanking the Mover of the Motion for thinking about bringing such a historic piece of legislation, if it will be enacted by this House. I say historic because this is a piece of legislation which is aimed at protecting the vulnerable members of our society; women, girls, and now, even boys and weak men.

(Laughter)

Mr. Deputy Speaker, Sir, we should not overlook the fact that men are also being raped nowadays. They are either raped by fellow men or some strong women. So, rape is rape, irrespective of who does it.

In the earlier days, incidents of rape used to be breaking news. When we heard about rape, it was such important news that it was the talk of the village, the towns and the country. In our African customary laws, we used to have ways of dealing with rape cases. In some African customary practices, there is punishment that is very pleasing. In the Boran customary law, if a man rapes a baby girl, he is killed, subject to the laws of that land. In Southern Ethiopia, where customary law is very strong, men who rape young children are killed. These are not written laws. They are African customary practices.

Mr. Deputy Speaker, Sir, scientifically speaking, in the animal kingdom, where human beings fall, if you look at it very keenly, you will find that the males of most animals are more beautiful than the females. For example, the cockerel is more beautiful than the hen. If you look at the lion, you will notice that it is, with its mane and everything else, more beautiful than the lioness. Also, the male ostrich, which is black and white, is more beautiful than the female ostrich. It is only in human beings where you find that the women are more beautiful than men in most cases. The irony of the matter is that, in the animal kingdom where the male are more beautiful than the female, the male do not rape. However, among humans, where the female are more beautiful than the men, the males rape the female and yet human beings have been given the ability to think more than other animals.

Mr. Deputy Speaker, Sir, this boils down to one fact, which is that people who rape are not better than the animals who do not rape. It is the responsibility of this House to enact laws to deter rape. If we can enact laws to fight corruption and establish a police unit called Anti-Stock Theft Unit, it is also important that we enact legislation to protect the vulnerable and the weak in this country.

Mr. Deputy Speaker, Sir, we should not fear. This law will address the crime itself, the punishment, the correctional measures and how we shall penetrate society at all levels in terms of education and other mitigative factors. Kenyans are not aware of what is happening, because most people have no access to the media. What we hear about is what we read in the media. The media should be given credit in this regard. They have been in the frontline to expose such acts of rape and other inhuman acts that are committed.

Statistics show that every 30 minutes, somebody is raped. That means, in the two hours during which this Motion will be debated, four people will be raped. I want my colleagues to imagine who will be raped. It could be my child or any other person's child or wife. It could be anybody's old mother, because rapists do not choose. It is with this in mind that we should focus on the importance of this Motion.

Mr. Deputy Speaker, Sir, at the Nairobi Women's Hospital, there is a wing called Gender Violence Recovery Centre (GVRC). I first visited that hospital because a child of four years old was raped in Korogocho. That child happens to be the child of the brother of my driver. That was the first time I saw that hospital. We came to realise that the person who raped that child had previously

raped five other children. I urge hon. Members, if they have time, to visit that hospital. That is where you will see the gravity of the matter we are discussing.

Mr. Deputy Speaker, Sir, the Government should support the Nairobi Women's Hospital. It should be able to supplement the services the hospital is giving. The Government should not take over the hospital. It should supplement the hospital in terms of drugs and other needs.

We should openly discuss the issue at hand. This is not an issue we should run away from. I remember that in the Eighth Parliament, we talked about devil worshipping in this country. A section of society did not want us to discuss devil worship. But this is something similar to that. I do not understand why somebody would defile a child of five months, as the Mover has mentioned. It is to inflict pain on who? Definitely not the child, because she does not understand anything. I think there is a spirit in this country that is doing this and we cannot run away from it. We must openly come out at all levels, whether in schools, at the level of parents and even leaders. We must open up and discuss this reality and look into ways of getting rid of it.

Mr. Deputy Speaker, Sir, coming to the legal aspect, the current legal framework is very unfair to victims of rape. Section 163 of the Evidence Act provides for the defendant to introduce evidence that he could lay before the court that the victim is generally of immoral character. That, if somebody defiles a young girl of five years, it is allowed by our current law that he could bring in evidence that this child was of immoral character even before he defiled her.

Mr. Deputy Speaker, Sir, the suspect in a rape case has a constitutional right of representation. But the victim does not necessarily have a right to be represented. You will find that a small child who has been defiled is exposed to a lot of drama even before the courts.

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

In the year 2000, a girl from my constituency went to look for school fees from a relative who is a police officer. She went to the police lines and found that her relative was not there. A colleague promised to take her to the relative. In the process, he raped the child. She reported to the same police station and the child was told to go and sleep in the police canteen where there were some other men. She was not given protection in the report office. We followed her case all the way to Kenyatta National Hospital. The police even collected her clothes that were blood-stained. That child was subjected to a lot of trauma in court; standing before the accused, cross-examined by the defence lawyer. Unfortunately, it turned out that the police officer was HIV-positive.

Mr. Temporary Deputy Speaker, Sir, we cannot let this go on. A rape victim goes to look for a P3 Form, but the police officer laughs at the victim, asking her how it was or whether she had a short skirt. It is a joke! This is not a laughing matter. It is difficult for a doctor to put enough details on the P3 Form from the way it is designed. So, this Bill should address such issues. The P3 Form should be amended to accommodate as much detail on what has happened to the victim as possible.

Mr. Temporary Deputy Speaker, Sir, in our laws, there is need to ensure appropriate sentencing. This would send appropriate message to would-be offenders.

With those remarks, I beg to second.

(Question proposed)

The Minister for Trade and Industry (Dr. Kituyi): Mr. Temporary Deputy Speaker, Sir, I want, first of all, to thank both the Mover and the Secunder of this Motion for not only having very

eloquently and competently argued their case, but also shown maturity and seriousness in dealing with this matter.

Mr. Temporary Deputy Speaker, Sir, as I stand to support this Motion, I want to say that one of the worst mistakes we make when we deal with matters of a grave nature like this, is how we use very banal attitudes to treat the matter as if it is a simple jocular matter, deride it with pettiness and lose focus on our responsibilities as citizens.

(Applause)

We have been given the privilege to serve as leaders and to have a vision for our society; to try to create a kinder Kenya and redeem the image of our country, which internationally, still walks under the cloud of the St. Kizito debacle. When the international media covered for the whole world, a headmistress said that the boys did not mean any evil; they simply wanted to rape. We have a responsibility to clean that image of the world thinking that Kenyans behave that way. The world needs to know that Kenyans are abhorrent about that conduct.

Mr. Temporary Deputy Speaker, Sir, I thank the Mover of the Motion because it is long over-due that, as leaders of this country, we show our collective outrage and do more than that. I support not only the introduction of that Bill for the law, but I support castration as a remedial exercise in that law.

Mr. Temporary Deputy Speaker, Sir, I think it is an anomaly to talk about "raping" a five-year-old kid. That assault is attempted murder. The act of a male adult defiling a four-year-old kid is attempted murder. It is not a sexual act. It is a perversion. But there is more pain to this. We live in a country where you find a woman magistrate presiding over such a matter finding some excuse to slap a very symbolic punishment on a male brute who has occasioned that permanent pain; mental and physical bruise on that little kid. We live in a society where we even condone and live with persons who have been involved in such acts. We live in society where we see the perpetrators of this criminal violence, but unless they are convicted by law, we treat them like normal human beings. We are not shocked until the closest to ourselves, our family members, are touched by this animal.

This Motion give us an opportunity, as a people, to say that we are outraged and this is not the image of the Kenya that we want. It gives us an opportunity to draw a line on this matter and say that, "This should not happen again." Why is it that having a more knowledgeable and inclusive society coincides with the astronomical increase in the number of child defilement and rape cases in the society? What is happening to us? Why is it that all of a sudden every village has a father who is defiling his daughter, and every neighbourhood has a serial rapist who waylays people's daughters as they come from the market or school? What has happened to collective responsibility? This is one crime that makes me feel pain as a parent. Every time I read about those things, I feel the pain because that could happen to my own daughter. I will be among those who would propose that if we are to set up vigilante groups for the purpose of security, then we should also have community policing on these criminal animals that are destroying the reputation of our country.

Mr. Temporary Deputy Speaker, Sir, I support the position that given the critical role being played by the Nairobi Women's Hospital, not only should the Government support this institution, but also build similar institutions in the countryside. This is because for every victim who goes to Nairobi Women's Hospital, there are, at least ten others who have no access to such a facility and who will need such services and facilities. This is especially with regard to those in the countryside.

Mr. Temporary Deputy Speaker, Sir, in Arabic there is a saying that goes: *Hamiha Haramiha*. It means that he who was made the custodian is the *Haram* who is destroying. It is a

painful experience when a child going to the showground in Nairobi gets lost and when she seeks security from an adult she can count on to help her find her way back home, she goes to a policeman who simply walks away with her and rapes her. It perverts the sense of social security. This is a kid who is lost and the only person who can help her is the policeman, but when she goes to the policeman, he takes her away and rapes her. Who can she turn to? I think one of the areas that we need to focus on as we redeem the employment benefits and discipline in the disciplined Forces is the internal code of conduct. It needs to be strengthened so that any officer who has been involved in the despicable act of breaching trust should not just be sacked, rather he should be put away as a demonstration to his colleagues that such a person does not belong to the public face of a decent Kenya.

Mr. Temporary Deputy Speaker, Sir, I know that many hon. Members want to make their contributions on this Motion and none of us can overemphasise the reality that this law is long overdue. This society needs to acquit itself with what happens in the community of civilised nations. This manhood needs to acquit itself before its women citizenry. We cannot do better if, as a first step, we do not say no to continued assault and rape and also to say collectively that we want to exclude from our midst those animals which do not deserve even to be considered equal to the lowest of animals like pigs.

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

Mr. Kipchumba: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion. I think hon. Members are very kind by saying that we need to isolate and rehabilitate these fellows. I do not know why we should rehabilitate such fellows. In fact, I would, given a chance, make an addition that, indeed, there should be a death penalty for such kind of animals.

Hon. Members are being lenient, perhaps, because it has never touched them personally. I think what we need to do as Parliament--- We should be very serious about this issue because our society has decaying morals and values. We must start from somewhere. If you look at the history of rapists, they never rape once. They do it today; they will do it tomorrow and given a chance they will do it again; even after serving a jail sentence. Returning rapists back to the society so that they can continue to rape and harm our children is quite unacceptable. If we are going to say that we re-introduce measures to rehabilitate these animals, it would be quite unacceptable. We should not allow them a second chance.

Mr. Temporary Deputy Speaker, Sir, this Motion says that first offenders should receive a minimum sentence. What if the rapist does it again? The Motion, in essence, says that there is room for these rapists to inflict the same pain by raping again. We have to review this Motion and ensure that if it happens once---

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Kipchumba! The meaning of minimum is that they should set a number of years. It does not mean that they should be given a lenient sentence.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, minimum sentences are what I am saying are unacceptable. We must, indeed---

The Temporary Deputy Speaker (Mr. Poghismo): Perhaps, we should get clarification about that. I think basically we should not go--- Anyway, you proceed because somebody else will respond to you when she stands up to speak. However, if that is the idea, then it is not acceptable.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, this is a Motion and I am sure that when the Bill comes before this House, we should be able to make amendments and even put in more substance. My understanding is that minimum is minimum and it has no other meaning. If it

means jailing someone for five years, that is the minimum. We should not allow for any minimum. If, indeed, somebody attempts to rape; leave alone raping someone itself, we must ensure that the person is secluded from the society. Seclusion has many forms. We could either build a sanctuary for such fellows so that tourists can go and see them because they are unacceptable in our society, or we could get rid of these fellows completely from our society by shooting them down, or ensuring that they drown in the waters of the Indian Ocean.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Kipchumba! I think, in the process of trying to help the situation, we should not make it worse by proposing laws that could be inhuman. So, let us keep---

(Loud consultations)

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I think the mere act of raping is actually inhuman. Therefore, if the act is inhuman, then rapists must be treated in the most inhuman manner.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Kipchumba, keep your focus on the Motion.

(Loud consultations)

Order, Members! Order! I think all of us feel what you feel, but we cannot allow hon. Members to side-track and suggest that rapists should be drowned or shot. Those are not things to talk about here.

(Loud consultations)

Order, Members! Let us not try to indicate that you feel this more than anybody else. We are an august House and we have decorum as well as the dignity of this House to uphold.

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

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, we are not saying that we feel it more than everybody else. I think everybody feels it. All we are saying is that this is a very serious matter. Indeed, we must recommend the most serious punishment that never exists in this country.

The Minister for Health (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it really in order for anybody to think that some people do not feel it much more than others when, in actual fact, the person who is affected mostly is a woman. Therefore, hon. Kipchumba is right to say what he is saying. I urge Mr. Kipchumba to go on.

The Temporary Deputy Speaker (Mr. Poghisio): Mrs. Ngilu, you are out of order. I do not know if you are playing to a particular audience or not.

Proceed, Mr. Kipchumba!

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, given the seriousness of this matter, we must get a way of getting rid of these fellows. We are suggesting that the best way to get rid of these fellows, so that they do not exist in our society, is to wipe them out from our society. There are many ways of wiping them out of our society. That is why I am saying that we must never give them a chance to rape a second time. Once a person has raped or attempted to rape someone, we

should get rid of him from our society completely. We would not want to see him again. If you go home today and find that your daughter has been raped, given a chance and if you have a gun, you will shoot the rapist. I want the provision that is seeking to rehabilitate rapists to be removed from the Motion. The rapists can never be rehabilitated. We have tried to rehabilitate them before in this country, but it has never worked. Raping a five-year-old girl is equivalent to murder. The penalties for attempted murder are very well stipulated. If a five-year-old girl has been raped, chances for her to survive and lead a normal life are very remote.

In addition to what Dr. Kituyi has said, I want to add that we must support the Nairobi Women's Hospital. Every year, the Government must set aside funds to compensate rape victims. Last year, hon. Members contributed towards the medical bill of a small girl who had been raped in some part of this country because the parents could not afford to pay for her medical bills. The Government must set aside funds, so that when we have such cases, it can pay for their medical bills.

Mr. Temporary Deputy Speaker, Sir, there is the issue of the mentally challenged persons. I do not know whether mentally challenged persons are allowed to roam in our streets. They should be in Mathari Mental Hospital. They should not be in our society, so that when they rape our women and children, we have an excuse. When rape victims are taken to hospital, the first thing that judges ask for is for the culprits to be tested whether they are mentally upright. We all know where mentally challenged persons should be. They should be in Mathari Mental Hospital or in other areas where they can be rehabilitated.

Mr. Mwandawiro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to utter such discouraging words against mentally disturbed persons? This is a reality of our society and it is a problem that we have to deal with humanly.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I am sure the hon. Member did not understand what I was saying. I am saying that we should not allow mentally challenged persons to rape women in our society. Indeed, they should be in Mathari Mental Hospital.

Finally, when we shall be drafting the Bill, I want to propose that we should introduce a death penalty for somebody who attempts to rape or rapes, so that rapists are got rid of from our society.

With those few remarks, I beg to support.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. Looking at the mood of the House and the number of hon. Members who would like to contribute to this Motion, especially those who are going to the Mover to be given an opportunity to contribute when she will be responding, may I suggest that hon. Members take five minutes each, so that we can all contribute to the debate on this Motion?

The Temporary Deputy Speaker (Mr. Poghio): Hon. Members, I am bound by the resolution of this House regarding Private Members' Motions. The resolution provides for ten minutes for each hon. Member. All I can say is that hon. Members who get a chance to speak can actually spend five minutes and yield the rest to other hon. Members.

The Minister for Roads and Public Works (Mr. Raila): Mr. Temporary Deputy Speaker, Sir, this House has the constitutional right to prescribe a law to condemn somebody to a lunatic asylum on the planet Moon. Therefore, when we speak here, we speak with very heavy hearts, because we are dealing with a very serious matter, indeed.

When you see that 16,000 rape cases were committed last year alone, and these are the only ones which were reported, you will see that we are dealing with a very serious issue, indeed. We want to build a secular, non-sexist, non-ethnic and a non-racist society. So, the crime of rape is not a gender issue. It is a crime against humanity. Therefore, it must be treated as such. What is it that

motivates somebody to rape? Is it merely because of sexual pleasure for a man to go and rape a five-month-old child? There are, of course, habitual criminals who will rape basically because that is how they are created naturally. However, there are those rapists who are motivated by nothing other than animal quality. For example, somebody would like to revenge against somebody whom he cannot reach or to humiliate somebody, and will, therefore, target a two-year-old child or somebody's wife.

Mr. Temporary Deputy Speaker, Sir, I agree totally that we have inadequate legal provisions to deal with this matter. That is the reason why people have been encouraged to get involved in this activity. This is an issue over which there should be no first offender. Once you have offended, you have offended and you are a rapist. You must, therefore, be treated just like a serial rapist. The moment we catch a highway robber, we subject him to a mandatory death sentence. However, there is also a highway rapist who waylays women - he does not know which women are going to come that way - and rapes them. This fellow is treated very leniently in accordance with our law at the moment. In my view, a rapist commits a worse offence than a robber who does not kill because he may infect his victims with the HIV/AIDS virus. Therefore, a rapists must be treated more seriously than a highway robber.

The Mover has said, and I know it for a fact that, P3 Forms are only available at police stations. You have to go to the police station first to collect a P3 Form before you can go to the hospital. This should be the other way round. A victim should first be rushed to hospital to be treated before the matter is reported to the police. The P3 Forms should be available in hospitals. The forms should be available with practising doctors all over the country, so that whenever somebody is raped, she can go straightaway, report the matter and a form is filled.

Mr. Temporary Deputy Speaker, Sir, many cases have been reported where women who have been arrested and taken to police custody are raped in police cells. Secondly, there is also a very complacent attitude whereby they say: "This is Africa. *Huyu ni mwanamke aliyekosana na bwana yake; kwa hivyo ataona.*" There is need to train our policemen to understand that they are the law enforcement agents and, therefore, it is their responsibility to protect each and every Kenyan, including women.

Mr. Temporary Deputy Speaker, Sir, we know that many women fear to report rape. Recently, we had the case of the well known Professor Ngugi wa Thiong'o. Those people invaded their flat, and as some of them were busy fighting with Prof. wa Thiong'o on the other side, others were busy raping the wife. But then, according to her, the husband did not think she had been raped because the man did not ejaculate. But a rape is a rape; as long as you have physically penetrated, then you have raped that woman.

(Applause)

But, at least, I want to thank Mrs. wa Thiong'o for having the strength of character to come out and own publicly to Kenyans that she was raped by somebody, so that we can know how these offences are committed.

Mr. Temporary Deputy Speaker, Sir, I know there are a number of hon. Members who want to contribute to this Motion and I do not want to take too much time. But I want to say this: As we deal with this issue, let us deal with societal attitudes about sexual crimes generally, but let us also talk about the issue of female genital mutilation, which is also a related matter. Let this matter also be dealt with effectively; let it also be treated as a serious crime against humanity.

With those few remarks, I beg to support.

Maj. Madoka: Asante sana, Bw. Naibu Spika wa Muda. Nasimama kuunga Hoja hii mkono na kusema wazi kwamba kitendo cha kunajisi ni kibaya sana, na mwanamume au

mwanamke yeyote anayefanya kitendo hichi hafai kuwa katika dunia hii. Nitakigawa kitendo hiki katika sehemu mbili: Kuna wale ambao wanawanajisi watoto wa miaka mitatu, minne au mitano. Mtu anayemnajisi msichana wa miaka mitano ni mwendawazimu, na mtu kama huyu hafai kuwa katika dunia hii.

Ingawa sote hapa tutakilaumu kitendo hiki cha kunajisi, ni lazima tuanze kufikiria ni vitendo gani vinavyochangia mtu kwenda kunajisi. Hii ni kwa sababu sisi sote ni binadamu, na iwapo mwanamke aliyevaa nguo fupi sana akipita hapa, sisi sote tutaanza kumwanguka.

(Applause)

Hii ni kwa sababu sisi ni binadamu, na iwapo mimi ni mnyonge na nimwone mwanamke huyu, huenda nikafikiria jambo lingine. Nasema hivyo kwa sababu---

(Laughter)

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

Maj. Madoka: Sitaki maelezo yoyote! Nataka kueleza kwamba katika nchi za Waislamu, kwa mfano, vitendo vya kunajisi sio vingi kama hapa nchini kwetu kwa sababu ya mavazi yao yalivyo.

Ms. Mbarire: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the reason we have rape cases is because ladies wear---

Hon. Members: No, he did not say that!

Ms. Mbarire: That is what he is alluding to, and he is misleading this House. May I remind him that---

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghishio): Order! Proceed, Maj. Madoka!

Maj. Madoka: Bw. Naibu Spika wa Muda, nilikuwa naeleza kuwa kuna mambo ambayo yanachangia jambo hili kutendeka, na hatuwezi kukana kuwa hiki ni kitendo kimoja ambacho kinachangia. Tunafaa sote tujue zile taratibu au mila ambazo tunataka tufuate ili kuhakikisha kwamba kitendo kama hiki hakitafanyika tena. Kwa hivyo, nataka kusema hivi: Tulaumu kitendo cha kunajisi, lakini pia tuangalie tabia zetu zingine ambazo zinaweza kuchangia mambo kama hayo. Naunga Hoja hii mkono kidhati na pia nataka tuwe na sheria ambazo kweli zitahakikisha kwamba watu kama hawa wataadhibiwa vikali.

Ms. Mwau: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. This Motion is long overdue and we need to put in place, laws and procedures that prosecute sexual violence, so that we actually come up with stricter sentences against violators. This is because there are very many cases of rape, as we have heard from the Mover of this Motion.

Mr. Temporary Deputy Speaker, Sir, I would like to concentrate on demystifying some of the myths around rape. The speaker who has just sat down talked of the manner in which women dress as being a contributing factor to rape; that is nonsense! Turkana women walk---

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that what hon. Maj. Madoka has said is nonsense? That is unparliamentary language; you should withdraw and apologize to the House!

Ms. Mwau: I withdraw and apologize---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, both of you! Order, now! Both of you should relax. What is the problem? What happened?

(Loud consultations)

Ms. Mwau: Mr. Temporary Deputy Speaker, Sir, I withdraw and apologize.

The Temporary Deputy Speaker (Mr. Poghisio): All right.

Ms. Mwau: I would like to demystify some of the myths that surround rape. Women are said to be raped by strangers and in lonely places. The fact is that most rape incidents take place at home.

Many of our girl children and boys are actually sodomized at home by their fathers, brothers, cousins and uncles. The other myth I would like to demystify is that, it is said that women say "no" when they mean "yes". But we are saying that "no" means "no" and "yes" means "yes". The other myth is that, they say men rape women because they are overcome by sexual urges. The fact is that rape is planned over a period of time.

Mr. Temporary Deputy Speaker, Sir, the manner of dressing among women is also believed to be the cause for rape. However, the fact is that rape has nothing to do with the manner in which women dress. We have seen babies of two years of age, grandmothers and women in *buibuis* being raped.

Therefore, it is not the manner of dress among women that causes rape. There is also a myth that only attractive young women are raped. However, all women have the potential to be raped.

The legal process of bringing justice to victims of rape takes a long time. I know that in Makindu, for instance, P3 forms are sold. I also know that in some places, medical reports are very hard to get, while in others, doctors refuse to fill in those forms because it is an expensive process as they would be required to go to court. I would like to recommend that as we discuss the Motion, there is need for the Ministry of Health to provide allowances so that doctors can go to court and make sure that justice is done.

Hon. Members: *Tosha!*

Ms. Mwau: My time is not yet up!
(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! We can only hope that she will take five minutes. However, she is not obligated to do so. She has the right to continue until she is done.

Ms. Mwau: Finally, Mr. Temporary Deputy Speaker, Sir, rape is about power. It is about who has power over who. It is, therefore, important to start changing our perceptions about men and women's sexuality.

With those few remarks, I beg to support.

Ms. Abdalla: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion that seeks to consolidate legislation related to sexual offences.

Mr. Temporary Deputy Speaker, Sir, this is a very important and timely legislation that we should be very proud to enact in the Ninth Parliament. Although last year we amended the Penal Code to have the maximum penalty for rape as life punishment, we have not amended it to deal with the minimum sentence. Therefore, I hope that the details in the Motion will cover this very important component.

Most of the speakers have talked about rape of girls. Last year, I had a very personal experience of a

person who, when I was growing up, was said to have been a rapist, and little girls were told to be aware of his actions. However, last year, 20 years after the time I was told that, that man was dangerous, he was shown on the KTN as having sodomised a ten year old boy. Generalising this offence is one of the problems that we have and we should refrain from that.

Since we do not have much time, I will deal with the issues of punishment of these sexual offenders. It is my submission that we should not spend taxpayers' money to rehabilitate people who destroy others' lives. It is my recommendation that the money that we use to rehabilitate these prisoners and to have "Uncle Moody" give them televisions should be used to rehabilitate those girls who would be traumatised by those actions.

(Applause)

Thirdly, I wish to further repeat what my colleagues have talked about the Nairobi Women's Hospital. However, funding should not only go to that hospital, but the Ministry of Health, which is now headed by one of us, should take priority in the next Budget of funding other such gender recovery units in all our district hospitals so that the services provided at the Nairobi Women's hospital can be decentralised.

Finally, again on the issue of the taxpayers' money being used to rehabilitate these "animals", we should instead focus that funding to the causes that increase rape, such as drug abuse and treatment of mentally-ill people.

With those few remarks, I beg to support.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, because of the time factor, I will just make three points. First, rape is rampant in the entire country. These days, we see cases of rape in Nyamira, Kericho, Nyeri, Bungoma, Mombasa and everywhere in the country.

Secondly, if we can commit this Parliament to punish a violent robber for violently robbing Kshs100, how about somebody who rapes a woman or a child violently? I want to give an example.

I went to a funeral of a councillor in Kisii Town who had been gang-raped in front of her own husband and relatives. When they finished their act, they inserted a bottle into her body and that woman died. When the husband, a retired senior police officer, was expressing himself during the funeral, he said: "I do not know whether I will survive in this world for another year after what I saw done to my wife last week." That man died within six months because of trauma.

Mr. Temporary Deputy Speaker, Sir, anybody who will oppose this Motion is a person who has not experienced this type of devilish act. In fact, they are not animalistic acts, but devilish. Since this country believes very strongly in one God, whether we are Muslims or Christians, we say that we want to put the devil very far from us. Therefore, if we meet a rapist, he should be shot.

An hon. Member:

Ashindwe!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, he should be publicly shot to send a message to every potential rapist in this country that this is a devilish act.

An hon. Member: Yes, before a firing squad!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, finally, this country should commit adequate resources for the treatment of rape victims in all health facilities in this country. I would like to urge the Minister for Health to bring a special Vote for this purpose in our next Budget.

With those few remarks, I beg to support.

(Applause)

Mr. Kenyatta: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute on the Motion before us. I will be very brief.

As has been said, the Motion before us is very serious. Over the last few years, sexual crimes against women and children, both boys and girls, have been on the increase in our society. Within our current laws, we do not have adequate provisions to deal with this kind of heinous crime. There is something, I believe, inherently wrong or absent in our criminal law system. As Mr. Angwenyi has said, a man or woman who, because of hunger, steals a chicken and was probably carrying a *panga* because he or she was on his way home from the shamba is charged with robbery with violence, which carries basically a death sentence. However, a man who robs a woman of her dignity and life and destroys the future of children can go to court and walk out scot-free. This is something we need to address as a nation.

Mr. Temporary Deputy Speaker, Sir, we should not only deal with the crimes, but we should also ask ourselves, as a House, what has gone wrong with our society that these crimes are on the increase. We need to address the social problem as well. Punishment, without the House addressing the social problems which have led to an increase in these crimes, is not adequate.

(Applause)

I believe that this House and the Government will take this matter very seriously and address it not only by passing this Motion, but also by coming up with a study to understand the causes of rape.

The Government has formed commissions which have looked into a variety of issues. The Government has spent billions of shillings in those commissions, and yet it has not spent adequate funds and time on issues which affect our women and children. As a House, we need to seriously address ourselves to

this issue by passing this Motion. Ultimately, the Bill should be seen as the beginning and not an end to this matter. Mr. Temporary Deputy Speaker, Sir, our Penal Code does not deal adequately with the rehabilitation of sexual offenders. Whereas we can see progress and improvement on the rehabilitation of our prisoners, I do not think that our Penal Code is capable of dealing with sexual offenders. Therefore, by passing this Motion, we will not only do a service to this country, but also send a signal to the entire world that Kenya is no longer a haven for sex tourism and abuse of our women and children. As a House, we are also sending a signal that sexual deviancy will be taken seriously and that the society should begin to prepare itself.

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

The Temporary Deputy Speaker (Mr. Poghisio): Let me give this chance to the Official Government responder!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to respond. First of all, let me thank the Mover and the Seconder of this Motion for bringing it before this House.

Hon. Members: Time is not yet up!

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! The Attorney-General is only responding. That is not the end of debate on this Motion. We will continue with the debate after the Attorney-General has finished responding.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, how much time do I have so that I can donate part of it to some hon. Members here?

The Temporary Deputy Speaker (Mr. Poghisio): I am sorry you cannot donate part of your time to hon. Members now!

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I rise here to support this

Motion. The Government supports this Motion because it is very important. A clear message should go out to the people of Kenya that this House collectively views these offences as being very abhorrent, primitive and cannot be tolerated in our society. In fact, this House feels that sexual offences should not be there in the first place. There must be zero-tolerance to sexual offences. That is why we are supporting this Motion.

Mr. Temporary Deputy Speaker, Sir, the Government has all the time had the need to have this Bill. In fact, sometime last year when I was moving the Criminal Law (Amendment) Bill, we dealt with a few issues. For example, it removed inconsistencies in penalties on sexual offences. It gave protection of identity of minors in criminal proceedings which were to be heard in camera. It also removed the need for corroboration which made it easier for persons to be convicted of these offences. At that time, this House will recall that I mentioned that the Government will be bringing a Sexual Offences Bill which is comprehensive. I also informed the House at that time the Government will work together with the civil society on this issue in developing that Bill. In fact, I want to assure this House that the Government has worked very closely with the civil society in developing such a Bill. In particular, we have worked with FIDA Kenya, Cradle Children Foundation and CLARION in developing the Bill. The Government has together with the Mover of the Motion and civil society worked together. I would like to assure this House that already there is a preliminary draft of the Bill which will be finalised in the near future. That Bill will be brought to this House by the Mover of this Motion. There will be an input from the Government. We have given the technical expertise in drafting this Bill because we know that this Bill requires the entire collective response of Parliament united, not the Government or the Opposition, to deal with this scourge.

Mr. Temporary Deputy Speaker, Sir, the Bill, of course, will deal with various issues. I do not have to go into them now. The only thing I can add to what the Mover of the Motion said is may be to touch on the international dimension of this Bill. As you may be aware, the offence of rape has, through a decision of the International Criminal Tribunal (ICT) on Rwanda, been declared a crime against humanity. Also, through jurisprudence of the European courts, the African Commission on Human Rights, the Inter American Commission on Human Rights and courts, the offence has also been classified as torture. What this means is that this is an offence that can be tried by the International Criminal Court which Kenya ratified last month. I was privileged to deposit instruments of ratification on 15th March, 2005 in New York. So, we are already party to it. So, at international level, this is an offence which is now being given a lot of attention and gravity. Matters have become very bad not just in this country, but all over the world because of pornography, the Internet and paedophiles, particularly in Western Europe. Children are at very grave risk of adults who are supposed to be their protectors. So, because of that, I welcome this particular Motion. A lot, of course, has been said about the specialised desks that are required to do this. Already, under the police reform, we have police women desks, which are intended to specialise in handling offences of this nature. These are offences which require specialisation not only in investigation, but also in prosecution and specialisation in the hearing of cases. In the Attorney-General's office, we have a unit which will specialise on prosecuting these cases.

Mr. Munya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Attorney-General to mislead the House that there are desks in police stations, when we know that those desks are confined in Nairobi, as if people are only raped in Nairobi?

(Applause)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, what I said is that we

have those desks. They are not all over the country. We have to start somewhere - that is Nairobi. Under the reforms that I mentioned, they will be available all over the country. That is the intention and plan.

Mr. Temporary Deputy Speaker, Sir, it has come out that we even require specialised treatment. There is an excellent example of Nairobi Women Hospital. As far as torture is concerned, we now have specialised centres for treating victims of torture all over the world. In other words, there are doctors who have specialised in treating victims of torture. That does not just mean the immediate treatment, but also the psychological help. At the United Nations (UN), a Fund has been established to fund those centres and civil organisations which are involved in investigating those issues and treating victims. I am privileged to have been appointed by Mr. Koffi Annan to be a Member of the Board of Trustees representing Africa. I can tell you that, in our last meeting which ended only yesterday - I arrived back home in the morning - it was decided that, because of the jurisprudence evolving around the issue of sexual offences, that too should be treated as torture. That will enable civil organisations and specialised centres of treatment to benefit from funding from the UN in that regard. Therefore, I can inform civil societies that have worked together with the Government that, starting next year, if they make proper applications, they may get some funding to help them in their work. They will not only treat victims of torture, but also investigate issues of that nature. Mr. Temporary Deputy Speaker, Sir, I want to say a lot, but I know Members would like to contribute. So, I will stop there. The Government supports this Bill. We shall continue to work together with the Mover and Seconder of this Motion, together with civil societies to ensure that the Bill comes to this House as quickly as possible.

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribute to this Motion. I am in support of this Motion. Rape is even worse than robbery. When you rape a child of three months old, you are robbing that child of her virginity. Some objects used on those children are even bigger than the size of the children. You can imagine the pain that, that child suffers throughout her life as a result of trauma. Mr. Temporary Deputy Speaker, Sir, the people who commit such crimes are not normal human beings. I support the bit that stipulates that they should be separated from the society. It does not make sense! Most of them do not enjoy that act. They are sadists! When you find someone raping a three year old girl and stuffs coffee berries in her nostrils, that is inflicting pain and cannot be accepted in a normal society. Recently, we read in one of our local newspapers about Dr. Kituyi sponsoring some two boys to repair their sexual organs which had been mutilated. I am glad that this Motion is addressing both men and women who are disadvantaged in this particular regard. That is why we are in support of it. We want to add more meat into the Bill when it comes to this House.

Most people do not know what it feels like to be raped, unless it happens to them. You can imagine when someone comes into your house to rob and rapes your wife while you watch. This is inhuman, degrading and nobody can accept it. Therefore, I propose that the firing squad team be allowed to continue being effective because rapists are not worth living with us.

With those few remarks, I support.

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I would like to congratulate Ms. Ndung'u for bringing this Motion before this House. I support it. The Bible says: "If any part of your body causes you to sin, it should be removed."

(Laughter)

In this case, we are talking about organs like the eyes and other parts of the body. We are talking about parts of our bodies which cause us to sin. I want to propose that these parts be removed in our

hospitals. This should apply to those people who defile and rape.

Rape is a serious crime. It does not only affect the person who is raped, but also members of the victim's family. It affects fathers, mothers, brothers, sisters and other members of the family. It is for this reason that I would like to make a proposal which may not be very popular: That we, at the Ministry of Health, when we get such cases, we only deal with a problem as it is. We clean the victim, administer Antiretroviral drugs. However, some of the cases coming to our hospitals concern women who are pregnant as a result rape. I would like to propose that if there is such a case, the victim should not be allowed to continue with the pregnancy until they give birth. The other proposal I would like to make concerns school girls who are raped. It is very difficult for school girls and especially for those in rural areas to go to police stations and report such incidences. I would like to propose that we have special offices and teachers assigned to such girls. The other thing we have to do is continue educating our children and the society: That prevention is better than punishment and treatment.

People who commit rape crimes are sadists. They are sick. It is not just enough to say that they be given strict penalties. It is right to say that we need to prevent rape and ensure that it does not happen. It is also not true to say that it depends on the way someone dresses. If this were the case, we would be having rape cases on all our beaches because at the beaches, people do not dress the same way we do in this House. Therefore, there is need to educate our people, get our men and talk about this issue during *barazas* and rallies, so that our people know what harm it is causing our society.

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

Prof. Oniang'o: Thank you, Mr. Temporary Deputy Speaker, Sir. I will not take much time because a lot has been said.

Mr. Temporary Deputy Speaker, Sir, I just want to congratulate hon. Ms Ndung'u for having the courage and taking the time to bring this Motion here. I also congratulate our fellow hon. Members here especially our male hon. Members who have actually taken this crime of rape as an attack on the Kenyan society. I usually remind them that: "Just imagine your mother, daughter, favourite grandmother and sister being raped?" Remember the little two year old baby who was found in Karura Forest with soil stuffed in her mouth and she had been raped and killed. Rape is not a sexual act. Rape is a murderous act and against humanity. God cannot forgive us if we allow this to go on. Mr. Temporary Deputy Speaker, Sir, we should ask ourselves: Where do rape cases exist in this society? Culturally, there was no rape. In our villages, a rapist was unimaginable and if they were there they would never be allowed to exist. Right now amongst the muslim community there are no rapists. They are stoned to death before even the police know of them. They would be removed from society. Something has gone wrong in our society and we must address it. We must go back to our roots in our villages and say: "Community policing and vigilante means that we shall not allow a rapist in our midst". Mr. Temporary Deputy Speaker, Sir, in the US and other countries, they take pictures of rapists and publish them everywhere. So, everybody knows them. If you are a child, you are told: "If you see this person run away or report him." There will be stoning and mob justice meted on the victim. That is where they use their guns. A parent will shoot a rapist. However, if we are going to really put this heavy sentence and I propose death sentence myself--- Countries are bringing back the death sentence. When we were in Manila at the Inter-Parliamentary Union (IPU) meeting, we were told that the number of death sentences and countries which are bringing back death sentences have actually increased over the past year and it is because of these kind of heinous crimes.

Mr. Temporary Deputy Speaker, Sir, if we are going to impose the death sentence we have to have true evidence and, therefore, I would like to urge our Government to invest in forensic laboratories

so that we can take those specimens and truly have the rapists confirmed that this is a rapist and we do not actually kill the wrong people. Mr. Temporary Deputy Speaker, Sir, women dressing has nothing to do with this.

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

Prof. Oniang'o: Mr. Temporary Deputy Speaker, Sir, I will leave it there. I support this Motion.

(Applause)

Mr. Khamasi: Mr. Temporary Deputy Speaker, Sir, thank you for giving me a chance to contribute to this Motion. As a House, we need to send very strong signals to rapists wherever they are that time has come for them not to exist in our society.

I want to take a short time and express my concern about the inability of our Government to do anything earlier. This is now taking a Private Members Motion to come here to seek leave to introduce a Bill to this House. This should have been done by the Government long time ago.

(Applause)

I am a little bit hurt that the Attorney-General now says there is something in the offing. I want to say this is a "sleeping" office because we have lived with rape for quite a long time. I think something should have been done by the Government to make sure that there is a law in place to curb this heinous act. Mr. Temporary Deputy Speaker, Sir, when this Motion was being mooted by Ms. Ndung'u, in fact, the intention was to castrate, particularly men who rape. She was, however, implored by hon. Members to remove the clause on castration. I do not know whether they still feel the same even today, because in this Motion, as I have heard, it is like they would want even to pass a death sentence on the rapists. As Prof. Oniang'o said, if you are one of the people who are affected in one way or another, ask yourself: If it is your daughter, or mother who has been raped, what sort of punishment would you like to be passed unto that particular offender? The answer is very simple. So, castration was even mild because each one of us would say: "If my daughter is raped, I will kill that man if I get him." So, when the Bill comes, I want to ask Ms. Ndung'u to make sure that we bring in the clause on castration. As Mrs. Ngilu has said, let us remove this organ which actually causes harm to innocent women and children. Mr. Temporary Deputy Speaker, Sir, rapists must be locked away from our society. There is no question about that. I have been a proponent of saying that our jails must not be made comfortable for people who commit offences like rape. I have said time and again that, if it is only necessary that we jail them, these people must have special jails where they can stay forever and, probably, treated because they are sick. These are a sort of people who should not be allowed back in our society. It is necessary that we move fast. The Attorney-General should not let Ms. Ndung'u go through the pains of bringing here a Bill. Let him bring the Bill as soon as possible, so that we enact it as an Act of Parliament.

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

Mr. Khamasi: Asante sana, Bw. Naibu Spika wa Muda, kwa kunipa nafasi hii ya kuunga mkono Hoja hii. Ningependa pia kuunga mkono Mswada wa Sheria ambao unatarajiwa kuletwa mbele ya Bunge hili. Tunautumania kwa hamu sana. Hata hivyo, ningependa kusema jambo moja au mambo mawili kuhusu Hoja hii. Kwanza, inapendekeza ya kwamba ni wanaume peke yao wanaonajisi wanawake. Lakini kuna ushahidi kwamba kuna wanawake pia ambao wanawanajisi wanaume. Ikiwa tunasema kwamba ni muhimu tukikate kile "chombo" cha mwanamume kwa sababu amenajisi, basi, tutafanyaje juu ya yule mwanamume ambaye ananajisi mwanamume? Je, tutakiondoa pia "chombo" hicho au tutafanya nini?

(Laughter)

Bw. Naibu Spika wa Muda, hilo ni jambo muhimu kwa sababu katika shule moja katika eneo langu, kulikuwa na mwalimu ambaye alikuwa ananajisi watoto wa shule. Jambo hili lilitokea hivi juzi.

Kwa hivyo, ikiwa tutaipitisha Hoja hii ni lazima iwe ya haki na usawa. Ni lazima hatua zitakazochukuliwa dhidi ya wanaume wanaonajisi wanawake ziwe sawa na zile zitakazochukuliwa dhidi ya wanawake wanaonajisi watoto. Bw. Naibu Spika wa Muda, ningependa tufanye utafiti wa kutosha kuangalia sababu zinazofanya watu fulani kuwanajisi watu wengine. Tunajua ya kwamba kuna sababu za kijamii pamoja na uvutaji wa bhangi, ulevi na kadhalika, ambazo huchangia jambo hili la unajisi. Ingekuwa muhimu kwa Serikali kuwa na utafiti wa kutosha ili kuhakikisha kwamba matatizo haya ya kijamii ambayo yanachangia katika mambo ya unajisi wa watu yanaangaliwa na kusuluhishwa.

Bw. Naibu Spika wa Muda, ningependa pia kusema kwamba kusiwe na tofauti yeyote kati ya mtu anayenajisi mara ya kwanza na mtu anayenajisi mara tatu. Ikiwa umenajisi mara ya kwanza, ni muhimu sheria iwe na uzito ule ule. Ikiwa ni kumuua au kumkata huyo mtu, tufanye hivyo ili kumaliza mambo kama hayo katika jamii yetu. Katika sehemu yangu ya uwakilishi Bungeni, hivi juzi tu, kulikuwa na uhalifu na akina mama wakanajisiwa na magaidi. Jambo hilo lilileta uchungu sana katika jamii na familia hiyo. Ningependekeza tupitishie sheria kali itakayomaliza mambo kama hayo. Pia, ningependa kusema kwamba ikiwa kuna urekebishaji wa tabia, basi ufanywe katika jela na wala sio katika jamii. Ikiwa mtu ameshikwa, urekebishaji ufanywe mara ile ili mtu asipate nafasi ya kurudia uhalifu huo. Vile vile, tuhakikishe kwamba hakuna msamaha wowote utakaotolewa kwa watu wanaonajisi. Namaanisha msamaha wa Rais unaotolewa kila mwaka. Watu wanaonajisi wamalize vifungo vyao. Wasipewe msamaha kabisa! Kwa hayo machache, ningependa kuunga mkono.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I would like to congratulate Ms. Ndung'u for not only coming up with this Motion, but also for reminding Mr. Murungi that when he became the Minister for Justice and Constitutional Affairs - and having been a human rights activist - women in Kenya were hoping that he will bring a Bill to enact such a law. The real test of this Parliament is not going to be because we have given leave, but it is going to be what kind of punishment we are going to mete against the offender. The purpose of any law is to serv

e a deterrent purpose. You do not have to jail those gentlemen. You do not need to kill them. There is no need. It is very simple! Just announce that in the High Court of Kenya, a man has been convicted of rape and on Saturday at Uhuru Park, the services of Dr. Khalwale will be sought to castrate him. You do that in Uhuru Park, Bukhungu Stadium or Ruring'u Stadium and other places--

- Only ten cases and there will be no rape cases in this country.

(Applause)

Mr. Temporary Deputy Speaker, Sir, as a practising medical doctor, there are difficulties that we meet when handling rape cases. This House is reminded that the moment we pass this law, we should expand our thoughts and think about the other laws of the country. I have in mind a consequence of rape called pregnancy. It is important for this House to be prepared that, if we pass this law, we should also give doctors an opportunity to conduct a simple abortion on a rape victim. There is also the issue of identifying the actual rapist. It is important that on the desk of the doctor, there should be facilities to take samples to carry out a DNA test. As doctors, we have a problem

because we cannot carry out HIV/AIDS tests on a patient or client without his or her consent and yet, we know that some victims of rape get infected with HIV/AIDS. It is important to create the right law for doctors not to seek the consent of the rapist to test HIV/AIDS. We should be allowed to do it automatically as a way of treating the victim, when she eventually comes down with HIV/AIDS.

Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to rest my case. I hope you will give the next chance to Ms. Mbarire.

(Laughter)

Mr. Moi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to comment on this. I will be very brief. No matter how heinous or abominable this crime is, we must not go on a murdering spree. It is more important that we do not sink to the level of the rapist. In my opinion we should lock them up for good. The most important aspect is that the medical treatment for those who have suffered this act should be free and immediate. It should not only be the physical medical treatment but also the psychological treatment of the victims. Once this has happened it will traumatise them for years to come and they should have free medical attention.

Mr. Temporary Deputy Speaker, Sir, secondly is the trial. Most victims will not come forward because the trials are not held in camera. They are extremely embarrassed, because society looks down upon the victims of such crimes. It is important that we hold rape trials in camera in order to protect the victims. I can see that most of my colleagues want to speak.

I support this Motion.

The Assistant Minister for Education, Science and Technology (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I want to thank the Mover and Seconder for bringing this Motion to the House. We know of the trauma that rape causes. Women of Kenya have brought their cry to this House. I want to congratulate hon. Members from both sides of the House, because I have seen how male hon. Members have supported this Motion. I hope they will be equally supportive when we deal with the actual Bill. We will pass a law that will make rape or incest history in this country.

Mr. Temporary Deputy Speaker, Sir, there is a school child aged 15 years from Baringo North who was raped and thrown over a cliff by a head teacher. This is the second child to suffer such fate under him. I want to thank Mrs. Chelaite for bringing the case to the attention of the Ministry of Education, Science and Technology. We interdicted the teacher who was arrested, but right now he is walking free. He is still free despite both girls giving statements that he raped them and that he even killed. I have letters from school children and their families who are writing to cry to us for help. If this House passes very stringent law, this will deter would-be rapists or incestuous individuals to know that what they face is irreversible.

Mr. Temporary Deputy Speaker, Sir, I support the Minister for Health if that can be done. Whatever happens these criminals must be removed from society. That is only one case. I cannot mention others because of the time limit. I want to thank KEWOPA for taking up this fight and bringing it to the House. I want to thank all hon. Members who supported that little girl when we appealed to you to give money for her to be treated. She has been treated physically, but I believe her mental capacity will never be the same again after that trauma. We must protect our girls and women.

Mr. Temporary Deputy Speaker, Sir, I support the Motion.

The Temporary Deputy Speaker (Mr. Poghio): Hon. Members, I will now call upon the Mover to reply.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, before I reply, I would like to donate

three minutes to Mr. Ochilo-Ayacko, two minutes each, to Mr. Muturi and Mr. Kiunjuri and one minute to Ms. Mbarire. I will then finish within one minute.

The Temporary Deputy Speaker (Mr. Poghio): Hon. Members, please, take your respective time.

The Minister for Gender, Sports, Culture and Social Services (Mr. Ochilo-Ayacko): Mr. Temporary Deputy Speaker, Sir, on behalf of the Gender Department of the Government, I would like to thank the Mover of this Motion for what she has done for gender issues in this country, particularly on offences that relate to women.

There is no property that is of better value than dignity and one's future. I believe that rape is violent robbery of one's dignity and one's future. Our law is very clear that if one is found guilty of robbery with violence, one must be sentenced to death. So, I believe, those who are asking for a stiffer penalty are in line with the policy that is already in existence. Particularly, if we can recollect that during the last Session, we enhanced the punishment to the offence of rape, I think we should prescribe minimum punishment. This should be "disarming the robber". Since the deadly weapon used in this kind of robbery is well known, I think the manner in which the "robber" should be disarmed is to make sure that this "deadly weapon" is removed completely, so that in future the culprit cannot use it to victimise other people.

Mr. Temporary Deputy Speaker, Sir, secondly, the beauty of this law should not be lost by our inability to enforce it. We know that we intend to pass a very good legislation, which will be very useful in trying to curb this offence. However, what is important is the capacity to enforce this law, and that will make us very happy as a country.

In conclusion, I would like to say that we will be ready and willing to work with the Mover of this Motion and the Attorney-General. I hope the House will be united in supporting issues that will free the women of this country.

The Temporary Deputy Speaker (Mr. Poghio): Mr. Muturi!

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank the Mover of the Motion for giving me two minutes of her time.

I support this Motion because, by the enactment of the proposed law, this country will be joining and saying to the rest of the world that we have acceded to the various definitions that have been given as to what constitutes a sexual offence. I want to support what the Attorney-General said: That, efforts are being made to try and widen the definition of what is a sexual offence, because we have had problems in the past. Having been a magistrate, I know that, indeed, the law has been more protective of the suspect or the offender than the victim.

Mr. Temporary Deputy Speaker, Sir, indeed, the Attorney-General will confirm that currently, under Section 163 of the Evidence Act, the suspect, who is the offender, is even allowed to bring, as his defence, evidence of past immoral character of the victim, regardless of the age of that victim. By proposing this legislation, this House and the country at large, is telling the rest of the world that we, as a country, have no time for such offenders. I want to join my colleagues who have proposed that we should introduce P3 Forms for victims of sexual offences.

With those few remarks, I beg to support.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion. A rapist rapes a woman or defiles a child in the morning, he is taken to court in the afternoon and he walks free. This evil person will be allowed to go back to the community once again. The evil spirit will loom over the society once again. Despite the outcry of the society, the pain of the victims and the relatives, the same suspect will be set free the same day.

Mr. Temporary Deputy Speaker, Sir, I am disappointed with the Attorney-General that he was not able to tell us which immediate action he will take to reinforce and make sure that there is

satisfaction for those who are crying for justice. I thought he would tell this House he is bringing in immediate amendments to the relevant law so that he can ensure that rapists are denied bail. That is the only gift the Attorney-General would have given to this nation. I would like to recommend that the Attorney-General moves with speed, even before the Bill is brought before this House, to bring amendments to the relevant Act to make sure that the rape suspects, especially those who defiled young children do not get bail.

Lastly, I would like to remind the House that it is even better for somebody to cut your hand or your leg rather than rape your wife, mother or your child.

With those remarks, I beg to support.

Ms. Mbarire: Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank hon. Ndung'u for bringing this Motion that will work towards the protection of children and women of this country.

Mr. Temporary Deputy Speaker, Sir, I fully support this Motion. As a mother, if you raped my little girl, this is what I would like to happen to you. I would like to be given a blunt hacksaw and be allowed to deal with that gadget that inflicted serious harm on my daughter. Finally, I would like to be given a gun to shoot that man. I speak like a mother and a woman. When you defile a little girl, you have taken away the life of that girl or that woman and it will never be the same again. So, we must not deal with lenient measures on this issue. We must deal with rapists without mercy.

With those remarks, I beg to support.

Mr. M. Kilonzo: Mr. Temporary Deputy Speaker, Sir, I owe a great deal of gratitude to the Mover of this Motion for giving me just one minute to contribute.

I wanted to highlight something from the actual practical application of rape law in Kenya today in our courts. One of the biggest problems is that our women citizens are regarded as second-rate citizens. When a Kenyan woman is raped and she is taken before a magistrate, the law requires that there must be corroboration of her evidence. It is outrageous! This is what we need to address as we look into these issues and to make sure that our women are given the right to offer their evidence without requirement that someone else should come and support them.

With those remarks, I beg to support.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I wish to thank my colleagues for their overwhelming support for the proposed Bill. I promise that I will be working with the Attorney-General and the relevant Ministries to publish the Bill as soon as you grant me leave.

Mr. Temporary Deputy Speaker, Sir, I want at this stage to thank the NARC Chief Whip, hon. Norman Nyagah for allowing this Motion to be a party-sponsored Motion. He allowed this Motion to jump the queue because he recognises its urgency. I hope other hon. Members also understand the urgency of this Motion.

In terms of taking this matter as seriously as it is, we may laugh at it, but we need to differentiate between sexual fantasy and sexual violence. There is a difference between saying that five women raped a man, and saying that five men raped a woman. Any time a man wants to visualise rape, please, imagine five men raping you. That way, you will understand the trauma we are talking about and hence move away from sexual fantasy.

Mr. Temporary Deputy Speaker, Sir, with regard to manner of dressing, I think it is the same as saying that because you are walking past a bank, then you should simply walk in and rob the bank. The issue of how women dress should not be the reason why men should rape.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I thank you all for supporting this Motion and I beg to move.

(Question put and agreed to)

INTRODUCTION OF NUTRITIONISTS
AND DIETICIANS BILL

Dr. Ojiambo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, aware that nutritionists and dieticians have no law to regulate their practice, this House do grant leave to introduce a Bill for an Act of Parliament entitled the Nutritionists and Dieticians Bill to provide for training, registration and licensing of the nutritionists and dieticians and for related purposes.

Mr. Temporary Deputy Speaker, Sir, this Motion talks about a science subject based on food and how it is used in the body to make us who we are.

Mr. Temporary Deputy Speaker, Sir, there is an old saying which says that you are what you eat. Nutrition is a science based on chemical analysis of foodstuffs. It is also based on the science of bio-chemistry, whereby the food that human bodies take in is broken down in the digestive track until it becomes who we are. It becomes our hair, muscles, blood and bones. It constitutes the bodies of animals and human. Nutrition is known as a key indicator of development. In Kenya today, the Millennium Development Goals recognise nutrition. The Ninth Development Plan recognises nutrition. The National Plan for Action of Nutrition itself recognises the importance of nutrition.

Mr. Temporary Deputy Speaker, Sir, this Motion is based on rich information drawn from universities in this country and workers of long standing in history, in not only in research but also in practical experience, working with Kenyans in the Ministries of Health, Planning and National Development, Agriculture and Education, Science and Technology, in collaboration with the United Nations Fund for Children (UNFC). These workers have produced a blueprint or a Paper, which should have been implemented, but has not been put in practice because there is no legal framework in this country to guide its effective implementation.

Mr. Temporary Deputy Speaker, Sir, in all the districts of this country, there are workers in the field of nutrition, just like in all the hospitals of this country, we have dieticians, who work alongside doctors, in health clinics and in places where people need to be guided on various food categories that they eat. The people who work in these areas have not been recognised because their job category amongst the Kenyan workforce has not been defined. Therefore, it is important that they be given a legal framework.

Mr. Temporary Deputy Speaker, Sir, this Motion has also been supported by the work that is going on in the Office of the President, particularly in the area of food security, where in the absence of a legal framework to guide nutrition and dieticians' policy in this country, the Office of the President has moved in to merely quench hunger by providing food donations and supplements.

Nutrition status of people is a matter of priority concern to the governments of the world, both for good health and prevention of diseases and for higher productivity. Nutritionists' work is the basis for those diet sheets that patients find in hospitals, private clinics, chemists and in other places where people go to be advised on what they should eat. For instance, diabetic patients are advised on areas of diabetic diet. Patients are also advised on kidney and heart diseases, poor malnourishment, HIV/AIDS and on the diet for expectant and lactating mothers. The same information is also given in normal situations, for instance, baby and athletes' foods, workers of various categories and also to teenagers for good growth.

In Kenya, we do not have such a thing as food tables. So, these people merely use their own estimation and are guided by information they get from outside countries. So, it is important that they be given a guideline upon which they can start using the knowledge that we have in this country to produce our own food tables for those who draw dietetics information or diet sheets, so that they will be able to use accurate information---

QUORUM

Ms. Mwau: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that this is a very important Motion, there is no quorum in the House.

The Temporary Deputy Speaker (Mr. Poghisio): Well, there is actually no quorum. Ring the Division Bell!

(The Division Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, there being no quorum, we have to adjourn. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.25 p.m.