

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 11th June, 2003

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYER

PAPERS LAID

Mr. Oloo-Aringo: Mr. Speaker, Sir, before I lay my Paper on the Table, I request hon. Members to collect their copies of the document from Committee Room No.8.

The following Papers were laid on the Table:-

The Estimates of the National Assembly for the Fiscal Year 2003/2004.

(By Mr. Oloo-Aringo)

The 2003/2004 Estimates of Recurrent Expenditure of the Government of Kenya for the year ending 30th June, 2004.

The 2003/2004 Estimates of Development Expenditure of the Government of Kenya for the year ending 30th June, 2004.

(By the Minister for Finance)

ORAL ANSWERS TO QUESTIONS

Mr. Speaker: I would like to urge hon. Members that we must train ourselves this afternoon for what will happen for the balance of the year! It is one hour for Questions! So, let us try to do a little practice!

Question No.211

FAILURE BY BANKS TO MEET
SHARE CAPITAL REQUIREMENT

Mr. Ndambuki asked the Minister for Finance:-

(a) how many banks have not met the minimum share capital requirement as stipulated in the Banking Act; and,

(b) what action he is taking against those banks which have not met the requirements.

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

(a) As at 31st December, 2002, seven banks had not met the minimum core capital requirement of Kshs350 million. On the same date, three banks had not met the total capital to total risk weight assets ratio requirement of 12 per cent.

(b) I would like to seek the indulgence of the Chair because this is a long answer. The action

taken on each of the seven banks is as follows:-

As at 31st December, 2002, the core capital of the Industrial Development Bank (IDB) was Kshs2 or Kshs3 million. To ensure compliance, the Central Bank of Kenya (CBK) wrote to the Chairman of the IDB requiring the shareholders to rectify the position and the report of full compliance of the bank. In a letter dated 30th September, 2002, to the CBK, the IDB Board promised to call upon the shareholders to inject additional capital. It should be noted that the prudential total capital to total risk weight assets ratio was 22 per cent, far above the minimum requirement of 12 per cent.

The action the Minister has taken against Fidelity Commercial Bank is that the CBK called a meeting with the Board of Directors on 21st March, 2003, during which the Board made commitment to organize for funds to re-capitalize the bank. The CBK is updated continually on the progress made by the shareholders in this regard.

On Paramount Universal Bank, it should be noted that the prudential capital adequacy ratio was 37 per cent, which was above the minimum requirement of 12 per cent. The CBK will continue monitoring the bank's progress to ensure full compliance.

To ensure compliance by Dubai Bank, the CBK called for a meeting with the shareholders on 27th March, 2003 and the Chairman of the bank undertook to ensure injection of additional capital by September, 2003. He also promised that 50 per cent of the required extra capital would be injected by June, 2003. It should be noted that the prudential capital adequacy ratio was 56 per cent, which was way above the minimum requirement of 12 per cent. The CBK will continue monitoring the bank's progress until it ensures full compliance.

On the National Bank of Kenya (NBK), I would like to state that the capital stood at negative Kshs4.178 billion as at the end of December, 2002. It should be noted that the prudential capital adequacy ratio was 9 per cent, which was below the minimum requirement of 12 per cent.

In the case of Daima Bank---

Mr. Speaker: Mr. Katuku, you are setting a very bad precedence! I had told the House that we need to try to experiment on how we shall deal with Questions in one hour and you are now taking ten minutes to reply to Mr. Ndambuki's Question!

The Assistant Minister for Finance (Mr. Katuku): Mr. Speaker, Sir, I will summarise my reply.

Lastly, on Euro Bank, as at 21st February, 2003, the core capital, as per a special inspection report carried out earlier, was negative Kshs953 million. As a result of this, the bank was placed under liquidation on 21st February, 2003.

It is important to note that the NBK, Daima Bank Ltd. and Euro Bank Ltd. were the only banks which did not meet both the minimum core capital of Kshs350 million and the capital adequacy ratio of 12 per cent.

Mr. Ndambuki: Mr. Speaker, Sir, if you listened to the answer from the Assistant Minister, banks were told to come and negotiate on how they were going to meet the required capital base. How come that was not applied to Daima Bank?

Mr. Katuku: Mr. Speaker, Sir, if the Questioner heard me right, I said the same applied to Daima Bank and the same was done. But they failed to raise the capital required and, subsequently, the bank was placed under statutory management.

Mr. Omingo: Mr. Speaker, Sir, it is this laxity from the Ministry and the controlling body, that is Central Bank, that has actually led to the collapse of banks at the expense of innocent savers. What is the Ministry doing to ensure that these banks meet the minimum required capital base before they are licensed to operate?

Mr. Katuku: Mr. Speaker, Sir, what we are discussing are mistakes done by the previous administration or the previous Government. But the NARC Government is committed to ensuring that minimum requirements for any bank to operate are met.

We have also strengthened our Inspection Department at the Central Bank to ensure that

regular inspections are done so that innocent Kenyans do not suffer. It is a fact that several banks went under because of the KANU Government.

Mr. Ndambuki: Mr. Speaker, Sir, most of the banks are experiencing problems in meeting the required capital. Could the Minister bring in an amendment during this financial year to change the required capital base of Kshs350 million and lower the figure because most local people will never participate in, or own a bank, if we stick to the Kshs350 million capital base required?

Mr. Katuku: Mr. Speaker, Sir, I have heard the suggestion from the hon. Member and we will consider it.

Question No.221

EXPENDITURE ON SOUTH MUGIRANGO
ELECTRIFICATION PROGRAMME

Mr. Omingo asked the Minister for Energy:-

- (a) when Nyatike Dispensary, Etago Dispensary and Nduru Secondary School will be provided with electricity; and,
- (b) how much money has been spent in South Mugirango for the period 2000/2001, 2001/2002 under the Rural Electrification Programme.

The Minister for Energy (Mr. Ochilo-Ayacko): Mr. Speaker, Sir, I beg to reply.

(a) Nduru Secondary School is scheduled to be supplied with power by the end of this year. Nyatike and Etago dispensaries, however, have not been programmed for implementation but will be considered along with others when the necessary funds are secured and upon the two institutions getting the requisite District Development Committee (DDC) recommendation and priority ranking.

(b) Kshs9,149,671 has been spent in South Mugirango under the Rural Electrification Programme for the period 2000/2001, 2001/2002. The funds were utilized in implementing power supply to Nyamarambe Divisional Headquarters.

Mr. Omingo: Mr. Speaker, Sir, the Minister, who happens to be my very good neighbour, knows for a fact that South Mugirango Constituency is actually landlocked by all other centres, which have electricity. This is because in the past we were told that we were not in the right books. Could the Minister ensure that, in the coming Budget, at least Etago and Nyatike dispensaries are considered as a matter of priority because people are suffering? How do we intend to create jobs if we do not give them electric power?

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, we as a new administration would be very happy to supply power to Nyatike. However, the priority ranking that we are getting from Gucha District is as follows: Tendere Market and secondary school, Nyabunde Coffee Factory, Nyamarambe, Murungumu and Kionyo Market. Etago Market and dispensary were not ranked as priority.

Maj. Madoka: Mr. Speaker, Sir, could the Minister tell us whether they have any specific policy in terms of supplying electricity to health centres, which are essential institutions and secondary schools or schools in general?

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, we are trying to improve the policy that was in existence, but this is the policy. The Government, with the limited resources that are available, will do its best to ensure that public institutions that serve the people are supplied with electricity. This will also be based on the priority ranking of the areas that are being targeted.

Mr. Omingo: Mr. Speaker, Sir, I am quite unhappy with the reply the Minister has given. Out of the five places he has named, only one, in the name of Nyamarambe has been considered. This is because in the District Development Committee (DDC), the former administration actually blacklisted South Mugirango Constituency because it was mainly in the Opposition. Could the Minister tell this House that the Government is now not running away from power but embracing power, and he is going to provide the consumer with power to create a difference between the NARC Government and

the KANU administration?

Mr. Ochilo-Ayacko: The NARC Government does not view any section of Kenya as an Opposition or a ruling party zone. NARC is committed to serving all Kenyans, and the service is based on priority ranking. So, I would urge my colleague and neighbour, hon. Omingo, to [**Mr. Ochilo-Ayacko**] make sure that Etago and Nyatike dispensaries are ranked as priority.

Question No.107

SUPPLY OF ELECTRICITY TO SUBUKIA

Mr. Wamwere asked the Minister for Energy:-

- (a) how much money has been paid to the Kenya Power and Lighting Company (KPLC) by the residents and community groups from Subukia Constituency for the last six years as deposit for the installation of electricity; and,
- (b) when the residents will be supplied with electricity.

The Minister for Energy (Mr. Ochilo-Ayacko): Mr. Speaker, Sir, I beg to reply.

(a) A total of Kshs6,727,692 has been paid by various residents and community groups towards the capital costs of installation of electricity. Out of this amount, Kshs1.3 million constitutes the total full payment by some applicants to Kenya Power and Lighting Company (KPLC) and implementation of the respective schemes is either complete or in progress.

The remaining Kshs5.4 million, out of the total payment, constitutes the partial payment by applicants to Kenya Power and Lighting Company (KPLC) and the same is refundable less the cost incurred on survey and design work, if the applicants do not go through with the project.

(b) The construction work for residents and community groups who have not made the full payment of their token contribution as advised by KPLC will be undertaken as soon as the same is paid and, also, subject to the Government securing the remaining balance to complete the projects.

Mr. Wamwere: Mr. Speaker, Sir, I do not really understand the answers given by the Minister. I think the language he is using is either too technical or confusing but, maybe, the Minister can tell the House how many groups he is talking about. This is because, as far as I know, there are more than 30 groups that have paid more than Kshs20 million which actually constitutes the 20 per cent they were asked to pay before they could get electricity. When he talks about Kshs6 million, could he reassure the House that the balance of Kshs14 million is not lost? In any case, how many groups is he talking about?

Mr. Ochilo-Ayacko: Thank you Mr. Speaker, Sir. There is a distinction that we need to make here. The KPLC is an implementing agency of the Government. The fact that 10 per cent of the estimates is paid to them does not empower or enjoin them to implement the programme. What happens is that the Government needs to come up with funding in order to pay the balance of 90 per cent. What has happened in the past is that the past administration did not come up with the balance of the amounts that were expected to complete these projects. Regarding whether the amount is Kshs6 million or Kshs20 million, if the hon. Member provides me with a specific indication of the people who have paid, I can check with the Kenya Power and Lighting Company (KPLC).

Mr. Wamwere: Mr. Speaker, Sir, given that there was a lot of corruption and disappearance of money at the KPLC, could the Minister assure this House that any money that was paid to this company by the residents of Subukia Constituency was not among the monies that may have disappeared? Could he further clarify whether this money earned interest? If the answer is in the affirmative, how much interest has the money earned over the last six years it has been with the company?

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, this money does not earn interest. Secondly, such payment is asked for by the KPLC because it costs money to conduct surveys and prepare designs.

Only groups that are able to raise a certain percentage of the cost are treated as serious groups. So, such money is not asked for from such groups for purposes of investment. However, I would like to assure the hon. Member that monies which were collected directly from the public are not lost; they are with the KPLC. As soon as the Government raises the balance of the cost, which we hope to raise very soon, the projects will be implemented. The hon. Member visited me at my office recently, and I promised to implement a few of the projects.

Mr. Speaker: Hon. Members, I will give one more chance on this Question. The Minister may be interested to note that I have 20 other Questions in the pipeline on the same subject. Some hon. Members may not have raised this issue with regard to their constituencies, but this is apparently a habit of the KPLC. I have 20 other similar Questions about different parts of the country.

Mr. Nderitu: Mr. Speaker, Sir, you might have noted that the Minister has accepted that the former Government did receive monies from various groups of people which wanted electricity installed in their areas of jurisdiction; they paid 10 per cent of the total cost of the projects. However, the former regime did not bother to look for the balance of the funds required for such projects.

Mr. Speaker: Could you ask your question?

Mr. Nderitu: Mr. Speaker, Sir, because of the many people in this country who have been affected, could the Minister come up with a list of all the groups of people that have deposited with the KPLC the 10 per cent of the cost of their respective projects, and tell the House what plans his Ministry has to ensure that all the people who have paid deposits to the KPLC will be supplied with electricity?

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, subject to easing of financial constraints - the Minister for Finance has promised to look into this matter - the new administration intends to increase connectivity of electricity from the current dismal 3.4 per cent to 20 per cent. Considering the continental average of electricity connectivity, Kenya's is shamefully low. When ranking of projects at both the constituency and district levels is done, projects of groups which have deposited the 10 per cent with the KPLC will be given priority. We will also ensure that, with the little funds that are available, only groups which have walked part of the distance will be assisted.

Mr. Speaker: I will take the last question on this matter from Mr. Kombe.

Mr. Kombe: Mr. Speaker, Sir, apart from those groups of people who have deposited 10 per cent of the project cost with the KPLC, there are other groups which have paid the full amount but have not been supplied with electricity. What is the Minister doing to ensure that these people are supplied with electricity immediately?

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, I would like the hon. Member to provide me with the particulars of the groups that have paid the full amounts of the cost of their projects, so that I can start implementing the projects tomorrow.

Mr. Speaker: Very well. Let us proceed to the next Question.

Question No.153

TARMACKING OF GATUNDU ROADS

Mr. Muiruri asked the Minister for Roads, Public Works and Housing:-

(a) why the Ministry has not tarmacked any road in Gatundu North for the last 20 years; and,

(b) what plans the Ministry has to tarmack Gatukuyu-Mataara Road.

The Assistant Minister for Roads, Public Works and Housing (Eng. Toro): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry has not tarmacked roads in Gatundu North for many years because the previous regime did not prioritise them for the purpose of tarmacking them.

(b) My Ministry will programme the Gatukuyu-Mataara Road for improvement once Thika

District Roads Committee makes recommendations to that effect since the road is under the District Roads Committee's (DRC) mandate.

Mr. Muiruri: Mr. Speaker, Sir, I want the Minister to admit that for the last 24 years not a single road in Gatundu North has been tarmacked. The people of Gatundu North are taxpayers like any other people in the country. Secondly---

Mr. Speaker: What is your question?

Mr. Muiruri: Mr. Speaker, Sir, part (b) of my Question asks the Minister to tarmack Gatukuyu-Mataara Road, and not to improve it. Further, the Assistant Minister has referred to the DRCs. He knows very well that the Kshs5.5 million that is allocated to each DRC every year is not enough to tarmack that road, which is 18 kilometres long. So, could he be serious and consider the fact that the people of Gatundu North have not had a single road tarmacked in the last 24 years? The last road to be tarmacked in that constituency was done during the Government of the late Mzee Jomo Kenyatta. So, Mr. Assistant Minister, stand up and tell the people of Gatundu North, through this House, when you are going to tarmack the Gatukuyu-Mataara Road and not when you are going to improve it.

Eng. Toro: Mr. Speaker, Sir, I wish the hon. Member had asked me why roads in Gatundu North have not been tarmacked for the last five months, that being the duration of time the National Rainbow Coalition (NARC) Government has been in power. However, roads in Gatundu North are not as bad as the hon. Member would want us to believe. Out of the 166 kilometres of the road network in Gatundu North, 63.8 kilometres comprise of bitumen road, while 52 kilometres comprise of gravel road. Only 50.2 kilometres comprise of earth road. The Gatukuyu-Mataara Road, D395, which is 27.4 kilometres long, is being assessed. Currently, the average daily traffic on that road ranges between 36 and 158 vehicles, which is too low for it to be considered for tarmacking.

Mr. Ndile: Bw. Spika, leo asubuhi Waziri Msaidizi alikiri kwamba Serikali iliyopita ilitumia pesa za umma kujenga barabara katika sehemu ambazo hazina magari. Je, Serikali ya sasa itachukua hatua gani dhidi ya maofisa wa umma waliotumia mamlaka yao vibaya?

Mr. Speaker: Je, unamaanisha Waziri Msaidizi azifutilie mbali barabara hizo? Bw. Waziri Msaidizi, unaweza "kuzichoma" barabara hizo?

(Laughter)

Eng. Toro: Mr. Speaker, Sir, what has been done cannot be undone. We can only try to improve the utility of the finances that are put into the road network. Previously, there has been a lot of misuse of the finances allocated to the road network countrywide. However, it is not possible at the moment to sack all the public officers who are responsible for the malpractice, because investigations into some cases are ongoing.

Mr. Muiruri: Mr. Speaker, Sir, I would like the Assistant Minister to be more serious. He has admitted that, for the last 24 years, not a single road has been tarmacked in Gatundu North. Likewise, no road has been improved in that constituency over that period. He now boasts that the NARC Government wants to correct all the wrongs that were done by the previous regime. So, could he tell the House the plans he has to tarmack the Gatukuyu-Mataara Road? He should not mislead the House that roads in Gatundu North are not so bad. He should not confuse Gatundu North with Gatundu South. There are so many tarmac roads in Gatundu South. On the other hand, only the Gatukuyu-Gakoe Road is tarmacked in Gatundu North. The rest of the roads in that constituency are not tarmacked. I can conduct the Assistant Minister on a tour of the area, so that he can believe what I am telling the House. He knows that I do not lie. So, could he say what he is doing to tarmack the said road?

Eng. Toro: Mr. Speaker, Sir, the hon. Member should appreciate that he comes from that side of the country.
particular road has had some improvement

because in the year 2001/2002, an amount of Kshs839,000 was used from the Constituency Fund and it was used to heavy-grade the entire road. This financial year, another Kshs569,000 from the Constituency Fund has been programmed for routine maintenance of the road. This still involves light grading and other labour-based maintenance works like ditch cleaning and bush clearing.

Mr. Muiruri: On a point of order, Mr. Speaker, Sir. The Assistant Minister is terribly misleading the House. He knows very well, and has admitted, that a lot of money in the District Roads Committees has been misused.

Mr. Speaker: Order! Mr. Muiruri, that is a point of argument! I did not give you the microphone for point of argument. I gave you for a point of order which is not there--

Mr. Muiruri: Mr. Speaker, Sir, the point of order I am raising is that the Minister is misleading the House--

Mr. Speaker: Order! That is not a point of order! You must understand what a point of order is! It is breach of the rules of the House. Now, you are out of order! How can you speak when the Speaker is on his feet? I am giving him the opportunity to learn. Can we try to learn? Maybe the Assistant Minister can have dialogue with the hon. Member with a view to assisting the citizens of Kenya. I am encouraging dialogue. Mr. Wario's Question!

Question No.194

OWNERSHIP OF KURAWA HOLDING GROUND

Mr. Wario asked the Minister for Agriculture and Livestock Development:-

- (a) who owns Kurawa Holding Ground in Tana River District; and,
- (b) what action he is taking to ensure that the holding ground reverts to its original intended purpose.

The Assistant Minister for Agriculture and Livestock Development (Mr. Munyao): Mr. Speaker, Sir, I beg to reply.

(a) Kurawa Holding Ground in Tana River is owned by the Government; that is the Ministry of Agriculture and Livestock Development.

(b) The purpose of the ground still remains as originally intended, which is to provide livestock producers and traders with facilities for livestock trade and disease control. Unless the hon. Member knows any other intention, that is the actual intention of the Government.

Mr. Wario: Mr. Speaker, Sir, if it is true that the Government owns this particular facility, why are two senior civil servants, one of them now deceased, denying the community access to use this facility?

Mr. Speaker: Order! That is not your Question. Was that the Question? The Question was: "Who owns the holding ground?" Would you like to respond?

Mr. Munyao: Mr. Speaker, Sir, you are quite correct. The hon. Member asked who owns the Kurawa Holding Ground in Tana River District and what action the Minister is taking to ensure that the holding ground reverts to the original intended purpose. The purpose is as I stated earlier, unless he has anything else in mind which the Ministry does not know. We will be happy--

Mr. Wario: Mr. Speaker, Sir, as if Kurawa Holding Ground is not a Government facility, two senior civil servants deny livestock traders access to this facility. That is why I asked who owns this facility. If it belongs to the Government, what is the Assistant Minister doing to ensure that this facility goes back to the public and not to these civil servants?

Mr. Munyao: Mr. Speaker, Sir, as at now, I know that the ground is held by the Government. If the hon. Member has any reasons or proof, we would be ready to co-operate because we would like the area to revert to the original use; to be used by the farmers.

Mr. Speaker: Maybe we can help the hon. Member. I think his complaint is that although the holding ground is Government-owned, some other people are using it to the exclusion of the general public. Are you aware of that?

Mr. Munyao: Mr. Speaker, Sir, I am not aware and my Ministry would be very happy to get any information to assist the hon. Member.

Dr. Kuti: These holding grounds are everywhere; where the people depend on animals. It is a ground where animals are kept while they are being marketed. There is infringement on this land and it has been converted to private use by influential people everywhere. I would like to ask if the Minister is aware of this and what Government policies are in place to protect this land. It is very important for animals to be held somewhere while they are sold in the market.

Mr. Munyao: Mr. Speaker, Sir, the Government's policy is very clear; to repossess those areas which had been acquired by the previous regime. Let us know where those plots are and we will take action. The NARC Government has only been there for five months---

Prof. Oniang'o: On a point of order, Mr. Speaker, Sir. Is it in order for this Government, and the Ministers, to continue attributing their non-performance and inefficiency to the previous Government of which they were a part?

(Applause)

Mr. Speaker: Order! I thought that is the whole idea of competitive politics. When you lose an election, they must rub it on you! Next time you win, rub it on them!

Mr. Munyao: Mr. Speaker, Sir, to improve the future, you must know the past.

Mr. Speaker: Last question, Mr. Wario!

Mr. Wario: Mr. Speaker, Sir, now that the Assistant Minister has almost understood that a funny thing is happening in Kurawa, I will see him and even give him more details on what has taken place in Kurawa.

Mr. Speaker: Very well! Mr. Billow.

Question No.258

MEASURES TO IMPROVE LIVESTOCK TRADE

Mr. Billow asked the Minister for Agriculture and Livestock Development:-

(a) whether he could inform the House how many camels, goats and sheep from Mandera District were sold locally in the last three years, and how many were exported; and,

(b) what plans the Ministry has to improve the sales of the livestock and also avert possible animal losses from drought.

The Assistant Minister for Agriculture and Livestock Development (Mr. Munyao): Mr. Speaker, Sir, I beg to reply.

(a) In the last three years, sales of camels, goats and sheep were as follows:- In 2000 they sold 5,733; 2001 - 7,157 and in 2002 - 7,500 camels making a total of 20,390 camels.

For sheep and goats, in 2000, they sold 156,386; 2001 - 137,421 and in 2002 - 137,421 making a total of 431,228 sheep and goats. There is no record of exportation of animals during the period in question.

(b) To improve the sales of the livestock and also avert possible losses from drought, the Government has the following plans:-

(i) To work towards revival and opening of the Kenya Meat Commission (KMC).

(ii) To establish teams at Isiolo, Garissa and

Tana River to screen cattle and other animals destined for the markets outside the region and for export purposes, for contagious diseases, besides several other disease control

measures that include routine vaccinations.

(iii) To encourage entrepreneurs to put up abattoirs to enable pastoralists to have alternative markets for meat and other livestock products.

Mr. Muite: On a point of order, Mr. Speaker, Sir. What is the animal? Do you see the animal immediately before goats in the Order Paper? What animal is this? Is it possible that the staff in your office, perhaps, had in mind this animal with a hump and they do not know how to spell it? What animal is this?

Mr. Speaker: What animal are you referring to?

Hon. Members: "Camles!" Shame on you!

Mr. Speaker: Order! Order! The brain is a very interesting thing. You look at one thing and the brain will direct you how to interpret it depending on your mood and whatever else. But I think the only thing that Mr. Billow can interpret this afternoon cannot be anything else except a camel. That is the thing he knows. The other one, which Mr. Muite knows, Mr. Billow does not know. So, what did you take this animal for, Mr. Assistant Minister?

Hon. Members: Camel!

Mr. Speaker: Mr. Muite, are you happy now?

Mr. Muite: Yes, Mr. Speaker, Sir.

(Laughter)

Mr. Billow: Mr. Speaker, Sir, the number of livestock that have been sold locally is just less than one-third of the total number of animals available for market annually. You will notice also in his answer that there were no livestock exported at all from that district during those three years. The reason is because there are no incentives provided by this Ministry to date for both exporters and other investors in the livestock industry. There is a European Union (EU) quota for livestock. Why has the Ministry not been able to benefit our farmers in that district from this EU quota? Two, there is also a Middle East market for livestock and, annually, over 20 million animals are taken from Africa and the other parts of the world. Why has the Ministry not been able to benefit us in that market?

Mr. Munyao: Mr. Speaker, Sir, as I was talking about the animals from Mandera, I did not talk about the entire North Eastern. It is very difficult, out of the total export, to know the number of camels, goats or sheep that came from Mandera. Two, the hon. Member is quite correct that the market is very wide. But as the hon. Member would know, the export market has got some conditions which at times, we are required to adhere to. The regulations are too many and we need to fit into that. We have got some predicaments in meeting them. Otherwise, we agree they are there.

Mr. Wario: Mr. Speaker, Sir, I appreciate the good answer given by the Assistant Minister. But the Government is always saying that they will revive the KMC. When will the Government revive the KMC? What plans does the Ministry have to support the Kenya Livestock Marketing Division as he said in his answer?

Mr. Munyao: Mr. Speaker, Sir, that is a very good question. In the past, the KANU Government had made it a song that they were going to open up the KMC. The NARC Government is going to open the KMC this year. I confirm that we are going to open the KMC next financial year; 2003/2004. So, be assured. The Government has got clear policies to support the pastoralist farmers including Dr. Godana.

Dr. Godana: On a point of order, Mr. Speaker, Sir. The Assistant Minister has said that the Government will open the KMC this year; 2003. Will he confirm?

Mr. Munyao: I am confirming---

Dr. Godana: Could you confirm that it will be opened during this financial year?

Mr. Speaker: Order! Order!

Mr. Munyao: I confirm that it will be opened in the year, 2003/2004, which is less than two weeks from now. We told you that we were going to offer free education and we have done it.

Mr. Speaker: Order! Order! We have got it in the HANSARD, it is 2003/2004 financial year. Last year, a Minister stood again there and said they will open the KMC in August last year and it was your Question. August came and went!

Mr. Munyao: That was KANU!

(Laughter)

Mr. Speaker: Very well! Let us leave it at that. Next Question, Mr. Ndolo!

Question No.215

MEASURES TO FACILITATE AWARD
OF SCHOLARSHIPS

Mr. Ndolo asked the Minister for Education, Science and Technology:-

(a) if he could inform the House the measures that are put in place to ensure that all Government scholarship forms under his Ministry are collected from education offices countrywide; and,

(b) if he could inform the House further whether the Chinese and Australian scholarship grants to his Ministry that were advertised early this month were only meant for residents of Nairobi.

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

(a) Apart from advertising in the local dailies, the Ministry makes sure that application forms for scholarships offered by friendly countries through the Ministry are distributed through the District Education offices countrywide for ease of collection by would-be applicants.

(b) The Chinese scholarships advertised through the Ministry were not meant for Nairobi only. As to the 1,030 undergraduate applicants, the distribution was as follows:-

(i) Coast	-	38
(ii) Central	-	199
(iii) Rift Valley	-	199
(iv) Nairobi	-	166
(v) Western	-	90
(vi) Eastern	-	113
(vii) North Eastern	-	24
(viii) Nyanza	-	201

The distribution for postgraduate was:-

(i) Coast	-	10
(ii) Central	-	69
(iii) Rift Valley	-	68
(iv) Nairobi	-	19
(v) Western	-	65
(vi) Eastern	-	53
(vii) North Eastern	-	7

(viii) Nyanza	-	76
Total		362

Further, the Ministry did not advertise any Australian scholarships but informed the readership of the opportunities offered in Australia through the internet especially to those who have access to the internet.

Mr. Ndolo: I thank the Assistant Minister for that answer. Could he table before this House the names of the people who have been given those scholarships?

Mr. Speaker: I cannot hear you!

Mr. Ndolo: I thank the Assistant Minister for that answer. Could he, please, table before this House the names of the people who have been given those scholarships?

Mr. Speaker: He is asking you to table the names of the beneficiaries of the scholarships.

(Applause)

Mr. Gumo: Mr. Speaker, Sir, I do not have the names right now. Is it really necessary to table the list?

(Laughter)

Hon. Members: Yes!

Mr. Gumo: Mr. Speaker, Sir, I do not want to embarrass the ones who got the scholarships. But if you insist, then I will table the list.

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

Mr. Speaker: Order! Mr. Mwenje, what is it?

Mr. Mwenje: Mr. Speaker, Sir, the hon. Questioner is a Member of Parliament for one constituency in Nairobi. Is he really in order to try to speak against Nairobian? If these scholarships were only given to Nairobi people, I thought that he would be happier. Is he in order to impute improper motives to Nairobi people who elected him?

(Loud consultations)

Mr. Speaker: Order! There is nothing as vulnerable as an hon. Member who wants equity for all Kenyans. So, there is absolutely nothing wrong with it.

Mr. Gumo: Mr. Speaker, Sir, if I may answer my colleague, because it really touches me when he says that I am not for Nairobi, Nairobi had 166 scholarships. That is a very big number. The scholarships were distributed throughout the country but, according to the applications. I think we were very fair according to the applications we received. We do not give scholarships to people who do not apply.

An hon. Member: When will you table the list?

Mr. Gumo: Mr. Speaker, Sir, I will bring the list after the Budget!

(Laughter)

Mr. Speaker: Order! Hon. Members, I think Mr. Mwenje was directing his fire to Mr. Ndolo, Member for Makadara Constituency. He is truly a Nairobian. Mr. Gumo, I think I can give you up to Tuesday or Wednesday, next week, to table the list. Will that be okay with you, Mr. Gumo?

Mr. Gumo: Mr. Speaker, Sir, I will table the list on Wednesday, next week.

Mr. Speaker: Very well.

Question No.250

DRYING OF BOREHOLES

Mr. Mukiri asked the Minister for Environment, Natural Resources and Wildlife:-

(a) whether he is aware that due to forest degradation in Mau East Forest, boreholes are drying up; and,

(b) what he is doing to redress the situation.

The Assistant Minister for Environment, Natural Resources and Wildlife (Prof. Maathai): Mr. Speaker, Sir, I beg to reply as follows.

(a) Yes, I am aware that serious land degradation took place in East Mau Forest where forest land was hiked off for settlement leading to massive clearing of forest cover. Forest land, in particular closed canopy of the indigenous type, serves to regulate rainwater flow so as to recharge other ground water aquifers. This clearing may have resulted in drying up of boreholes.

(b) The Government is in the process of reviewing the whole issue of forest land allocations with a view to repossessing all illegal allocations and reverting the land back to forest through rehabilitation. My Ministry, through Farm Forestry Extension Services, has embarked on promoting agro-forestry practices in both large-scale and small farming communities with the deliberate intention to increase tree cover. This will reduce fast surface water flow after rains and increase percolation and recharge of the ground water aquifers.

Mr. Mukiri: Mr. Speaker, Sir, I am quite pleased to hear that the Ministry is doing something about forest degradation. However, there is some land that is lying fallow which is not subject to settlement by the people. This is the land where trees were harvested some two years ago and yet, the Ministry is doing nothing towards re-afforestation.

Mr. Speaker, Sir, could the Assistant Minister tell us what specific measures the Ministry is taking so that they can re-plant trees in these areas which are not subject to human settlement?

Prof. Maathai: Mr. Speaker, Sir, if I could inform the hon. Member, the Ministry is faced with a very large backlog of areas that were deforested and yet are to be forested. As we said, we have embarked on strategies, not only to produce the seedlings, but also to mobilise communities, especially those that live around forests so that we can produce the millions of seedlings that are needed to enable us replant. In the meantime, much of the land that was previously cleared will have to wait.

Mr. Sungu: Thank you Mr. Speaker, Sir. I recently travelled over this area in a helicopter. If you were to see the kind of devastation visited upon the forest by these land grabbers, you would cry. This is a very important area for rain catchment, not just for the lower areas of Rift Valley, but also for Nyanza and Lake Victoria. I would like to know what action the Government will take against those who caused this irreparable damage to this country?

Prof. Maathai: Mr. Speaker, Sir, destruction of forests, and especially catchment areas, is a crime and it is part of the corruption that bedevilled our country for many years. First and foremost, there has to be investigations to know who did it and under whose instructions this was done. That would require a different Question so that an investigation could be done in order to come up with a specific decision on what the Ministry will do when specific people are identified as having deliberately destroyed the catchment areas.

Mr. Speaker: Mr. Kombe's Question.

Mr. Mukiri: On a point of order, Mr. Speaker, Sir. Could you please give me the last chance?

Mr. Speaker: Mr. Mukiri, but I have already given you two chances.

Mr. Mukiri: Mr. Speaker, Sir, you only gave me just one chance.

Mr. Speaker: I am sorry about that. I will give you another chance next time.

Mr. Mukiri: Mr. Speaker, this is a very important Question.

Mr. Speaker: Order! ordinarily, I do not do this, but I agree this is an important issue. Proceed, Mr. Mukiri!

Mr. Mukiri: Thank you very much Mr. Speaker, Sir. The Assistant Minister says these areas are very large. However, the people of Molo, and the communities living around these forests, are ready to assist the Government in the replanting of trees. Could she give us an assurance that the Government will facilitate this and that they will allow the local communities to assist the Government forthwith to start re-afforestation?

Prof. Maathai: Mr. Speaker, Sir, I think it is important to get the details of what the communities mean when they say "they will assist the Government". Does that imply that the Government will have to spend some resources, or the communities will need some training? In the past, communities have not actually been involved in planting trees. If we did that, it would have to be a shift of policy and this is something that needs consultation within the Ministry.

Mr. Speaker: Next Question, Mr. Kombe.

Question No.271

MEASURES TO IMPROVE CONDITIONS
FOR SALT WORKS EMPLOYEES

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

- (a) What action he has taken to assist workers at Mombasa Salt Works, Krystal Line and Kurawa Salt Works, who are overworked and underpaid; and,
- (b) What urgent action he will take to ensure an improvement of terms and conditions of the workers.

The Minister for Labour and Human Resources Development (Mr. Balala): Mr. Speaker, Sir, I beg to reply.

(a) I have taken action by enforcing the current labour laws. However, our investigations reveal that there are no underpayments and any overworking is compensated as workers are paid on piece-work system, which is normally higher than what the general wage order provides.

(b) I have taken action by advising the workers and the management to negotiate for better terms and conditions through the Kenya Chemical and Allied Workers Union (KCAWU). My Ministry has already enforced better working conditions and environment by ordering the employer to provide the following: Protective clothing; boots and gloves, supply of clean water, free medical services and free transport to and from their workplace.

Mr. Speaker: Where is the owner of the Question to support it? Mr. Kombe, are you happy?

Mr. Kombe: No, Mr. Speaker, Sir.

Mr. Speaker: Then, why are you sitting down?

Mr. Kombe: Mr. Speaker, Sir, the Minister is talking of enforcing the labour laws. I wish to tell him that salt harvesters are heavily underpaid. For a piece of work done, four or six people are only paid Kshs300. If you divide Kshs300 by six people, each will get Kshs50. I believe that is far much below the general wage guidelines.

Mr. Speaker: What is your question?

Mr. Kombe: Mr. Speaker, Sir, the Minister is not telling this honourable House the whole

truth about the wages paid to the salt harvesters. These are the rates being paid to them and not what he has in his office. He should have visited these particular firms to confirm this.

Mr. Speaker: Order, Mr. Kombe! We are on Question Time.

Mr. Kombe: Mr. Speaker, Sir, let the Minister tell this honourable House the whole truth about the wages at the salt firms. What he is telling us is not the truth.

Mr. Speaker: Order! You asked the Minister questions or facts. You know the fact surrounding the situation there. Ask him specific questions so that he can give you specific answers. This is Question Time. Please, ask your supplementary question slowly and quietly.

Mr. Kombe: Mr. Speaker, Sir, I would like to know from the Minister how much each worker is paid by the salt firms, since a piece of work is paid Kshs300 for six people.

Mr. Balala: Mr. Speaker, Sir, I will only tell the truth of the team that visited Mombasa Salt Works, Krystal Line and Kurawa Salt Works. The work there is done in piece work and they pay between Kshs100 and Kshs250 per day per person depending on the kind of work that is done on that particular day. The general wages order is Kshs95 per day per person.

Mr. Mganga: Mr. Speaker, Sir, the question of under-payment and over-payment in this country cannot be gainsaid. You just need to go across, to a place like Export Processing Zones (EPZs) and find miserable Kenyan workers who are seriously overworked and underpaid. They are only paid Kshs27 per hour as overtime. Every year, the Ministry of Labour and Human Resource Development announces a minimum wage to Kenyan workers, but it is not commensurate to the standards and cost of living.

Could the Minister consider appointing a special task force to carry out a special exercise with a view to determining a reasonable minimum wage for a Kenyan worker which will enable him live a reasonable life in Nairobi and other towns?

Mr. Balala: Mr. Speaker, Sir, I know the agony of Kenyan workers in this country. They are underpaid. However, We have taken vigorous action to address the issue. We have sent our officers to the field to investigate the working conditions. The proposal by the hon. Member will also be considered.

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

Mr. Speaker: Last question, Mr. Kombe! We have done so badly.

Mr. Kombe: Thank you Mr. Speaker, Sir.

(An hon. Member stood up in his place)

Mr. Speaker: Sorry. By the way, what is your name?

Mr. Maitha: My name is Mr. Maitha.

Mr. Speaker: I know you now. I wanted to know your name.

Mr. Kombe: Mr. Speaker, Sir, I have two questions.

Mr. Speaker: Order! One only and very briefly! You are so windy.

Mr. Kombe: Mr. Speaker, Sir, the Minister has said he has taken measures to ensure that workers are given protective clothing such as boots, gloves and clean water. However, I have evidence here, which I wish to table. I have photographs of people who are bare-footed, no gloves and no goggles, yet he claims to have taken measures to ensure good working conditions.

Mr. Speaker: What is that evidence?

(Mr. Kombe waved some photographs)

Mr. Kombe: Mr. Speaker, Sir, I have photographs showing that what the Minister has said is not true.

Mr. Speaker: Order! For the benefit of the new hon. Members, we do not take photographs and table them here as proof because it is very difficult for the House to find their authenticity. We will not take evidence to find out who took those photographs and to whom they belong. So, it is difficult for the House to prove their authenticity. We will not accept that.

Mr. Kombe: Thank you, Mr. Speaker, Sir. I will show the photographs to the Minister.

Mr. Speaker: Alright! You can help him to solve the problem.

Mr. Balala: Mr. Speaker, Sir, I assure the hon. Member that I will work with him, go physically on site, look at the conditions and resolve the issues.

Mr. Speaker: That is very nice. Hon. Members, you can see we have done very badly. We were supposed to deal with all the Questions by 3.30 p.m. We have not done it. Unfortunately, from tomorrow, we have to finish all Questions by 3.30 p.m. For today, I think we will tolerate. I intend to cover all the Questions on the Order Paper. I do not want to postpone them but, at the same time, please, do not learn from Mr. Kombe; to take five minutes to finish one Question. Please be precise.

Let us move on to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

EXISTENCE OF MILITIA GROUPS IN KENYA

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

(a) How many militia groups exist in Kenya?

(b) What elaborate plans does the Minister intend to put in place to weed out these militia groups from our midst?

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

(a) I am not aware of the existence of any militia groups in Kenya. However, there were self-styled vigilante groups and sects which were outlawed by Legal Notice No.42 of 15th March, 2002.

(b) Part "b" of the Question may not be an issue given the explanation given in part "a" above of my reply. However, strengthening of the enforcement of law and order and provision of adequate security by the Government has helped to curb any emergence of vigilante groups.

Mr. Kamama: Mr. Speaker, Sir, I think the answer is not satisfactory because, when we talk about security of this country, this is a very important issue which must not be taken casually. We have two international militia groups which operate in Kenya and I have in mind the Sudanese People's Liberation Army (SPLA) group which operates in Turkana North and it has killed people; in fact, almost on a weekly basis. I have in mind the Oromo Liberation Front which is terrorising people in the northern parts of Eastern Province. We also have local militia like *Mungiki*, *Kamjesh* and *Taliban* which operate within Nairobi City. We also have *Amachuma* and *Chinkororo* in Nyanza Province. We have *Sungu Sungu*, *Baghdad Boys*, *Jeshi La Mzee* and so many others. So, the Assistant Minister should take this Question very seriously because we want answers in specific terms. He should tell Kenyans what they are.

Mr. Speaker: Very well, Mr. Kamama. Mr. Assistant Minister, Mr. Kamama is using the words "we have". Do we truly have these militia groups?

Mr. Tarus: Mr. Speaker, Sir, the definition of "militia" refers to a trained military force whose members should not belong to a regular army, but operate like one especially to defend their country in an emergency or locally to defend or promote a defined group's interests. No such groups exist in Kenya. What used to exist were sects or the so-called vigilante groups with cultural, religious, political and socio-economic interests whose deviant activities were inimical to law and order. These groups were outlawed by, as I said earlier, Legal Notice No.42 of 15th March, 2002 and they still remain outlawed. They included *Mungiki*, *Taliban*, *Jeshi La Mzee*, *Jeshi La King'ole*, *Chinkororo*, *Kamjesh*, *Angola Msumbiji*, *Baghdad Boys* and *Runyenjees Football Club*. These groups have been stamped out through police operations leading to arrest and prosecution of their members. Most members of the *Mungiki* sect, for example, voluntarily surrendered to avoid prosecution. The Provincial Administration and the police had been given firm instructions to enforce the law on the proscribed societies; by monitoring any trace of affiliation of their membership and meetings. The public, through the Provincial Administration and the Press, have been sensitised to report any operations and existence of any such outlawed or related groups bent on disrupting law and order.

Mr. Speaker: The last question on this issue from those Members who really have an experience of these gangs! Messrs. Tarus and Kamama, I called them "thugs" and not "militia" and they were outlawed from Parliament a long time before the Minister gazetted that order to outlaw them.

So, Mr. Kerrow Billow, do you have anything about gangs?

Mr. Billow: Mr. Speaker, Sir, speaking of militia groups, the most famous one we have in this country is none other than the *Mungiki*. *Mungiki* came back to life after the NARC Government came to power. The number of people who have been killed by *Mungiki* in the last six months run into dozens. What action is the Assistant Minister taking to completely eliminate the threat of *Mungiki* in this country?

Mr. Tarus: Mr. Speaker, Sir, I think it is not right to say that *Mungiki* has come back to life. The Government has taken stern actions to ensure provision of security across the country. I do know that there may have been one or two problems associated with some criminals, but the Government is pursuing those being branded as criminals.

Mr. Munya: On a point of order, Mr. Speaker, Sir. Is it in order for hon. Billow to mislead the House and tell us that the most famous gang in this country was *Mungiki* when we know that the most famous was *Jeshi La Mzee* which was even beating hon. Members of Parliament?

Mr. Speaker: Mr. Munya, what did you say?

Mr. Munya: Mr. Speaker, Sir, I said that the most famous gang in this country was *Jeshi La Mzee* which was even beating Members of Parliament and not *Mungiki*.

Mr. Speaker: So, what is out of order out of this? Mr. Munya, are you saying that because there is one illegal gang, another one must be there? Is that what you are saying? Are you defending the existence of an illegal gang proscribed by the Government? Is that what you are saying?

Mr. Munya: Mr. Speaker, Sir, I am not defending any gang that causes insecurity, but I just observed that the other side did not mention that *Jeshi La Mzee* which has done a lot of harm and which also needs to be dealt with.

Mr. Speaker: Order, Mr. Munya! Last time I told you that you are acquiring a very interesting reputation and I think you better guard yourself against acquiring a reputation that is not befitting a Member of Parliament. Let the Government speak for itself. Now, if you want to support a Minister, pose a friendly question, but do not hijack a Question to put across your own view.

Mr. Assistant Minister, would you like to agree with him?

Mr. Tarus: Mr. Speaker, Sir, all gangs have been proscribed and we do not recognise any.

Mr. Speaker: Well, I think we have finished with that Question. The time is against us.

Mr. Munya!

SETTLEMENT OF THARAKA/TIGANIA
BORDER DISPUTE

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

(a) Is the Minister aware of the existence of a protracted border dispute between Tharaka and Tigania East constituencies that has occasioned loss of lives and property and disrupted development in the area along the border?

(b) What action is he taking to settle this dispute?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, I beg to seek the indulgence of the House for this Question to be deferred. I have the answer in regard to this Question but I want to make some confirmation over a report that we have received. This is because the information we have is related to one particular area and the other area has not been covered. We would like to cover the entire issue exhaustively. May I request to answer this Question next week on Tuesday?

Mr. Speaker: Mr. Munya, what is your reaction?

Mr. Munya: Mr. Speaker, Sir, I have no objection to that request.

Mr. Speaker: Mr. Assistant Minister, will Tuesday be okay for you since I want you do a thorough job out of this?

The Assistant Minister, Office of the President (Mr. Tarus): Mr. Speaker, Sir, Thursday will be okay.

Mr. Speaker: Mr. Munya, will you be available on Thursday?

Mr. Munya: Mr. Speaker, Sir, there is no problem since I will be available on Thursday.

Mr. Speaker: Very well. Mr. Assistant Minister, I think you will do a good job on Thursday.

(Question deferred)

CLOSURE OF MUMIAS SUGAR FACTORY

Mr. Oparanya: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture and Livestock Development the following Question by Private Notice.

(a) Is the Minister aware that Mumias Sugar Company has been closed as a result of a strike by the tractor drivers and the reduction of sugar price from Ksh2,015 to Ksh1,750?

(b) What action is he taking to ensure the factory is opened?

(c) Who will compensate the farmers for the sugar-cane which had already been harvested and is not collected?

The Assistant Minister for Agriculture and Livestock Development (Mr. Munyao): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that recently there has been a problem in Mumias Sugar Company due to a strike by tractor drivers, leading to the closure of the factory. I am also aware that Mumias Sugar Company reduced the price of sugar-cane from Ksh2,015 per tonne to Ksh1,750 per tonne. The management of Mumias Sugar Company was implementing a decision of the Sugar-cane Pricing Committee in accordance with Section 8 of Part III of the Second Schedule of the Sugar Act 2001.

(b) A return to work formular between the drivers and their employers was agreed upon on 22nd March 2003. Meanwhile, I held a meeting with all the stakeholders on 18th March 2003, whereof it was agreed that they should make a proposal on how to end the stalemate. I have also formed a task force to come up with a long-term solution to the problems within the sugar sector.

However, the Mumias Sugar Company Board of Management, resolved on 27th March to close the factory for three weeks for maintenance, hence, operations have resumed normally.

(c) Finally, for any cane that was cut on the instruction of the sugar company, the company shall pay the farmers according to the terms agreed and as by the time of cutting.

Mr. Oparanya: Mr. Speaker, Sir, this Question came here sometime back and some issues have been overtaken by events. However, the cane pricing committee agreed to reduce the price to Ksh1,750 per tonne for three months, pending the Ministry coming up with a policy to stop dumping of sugar from overseas. My question is: what measures has the Ministry taken to stop the dumping of sugar?

Mr. Munyao: Mr. Speaker, Sir, let me first say that the Government is very concerned about the sugar farmers, both in Western Province and Nyanza Province. The Government is not ready to allow any dumping and it has been very alert on that. We know that there is some amount of sugar which ought to be manufactured for our consumption; we realise that there is some shortage, and the shortage is what is imported to balance the requirement of the country. However, it is not the Government intention at all to allow excesses to be dumped in the country.

Prof. Oniang'o: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Prof. Oniang'o: Mr. Speaker, Sir, I am a sugar-cane farmer from Mumias. Is the Minister in order to give us the impression that there is no dumping in our country when we are aware that sugar is arriving at the port of Mombasa when there is a lot of sugar in the sugar-growing area? The Assistant Minister is not giving us the right answer. Is it fair and in order for him to continue to mislead us, when we know that more than six million Kenyans derive their livelihood from sugar directly, and double that number indirectly?

Mr. Munyao: Mr. Speaker, Sir, I think the hon. Member is totally echoing what I had said, that the Government is totally concerned because we will not allow dumping and illegal importation of sugar. Where is that imported sugar?

An hon. Member: At the port.

Mr. Munyao: We do not know!

(Laughter)

Dr. Khalwale: Mr. Speaker, Sir, the farmers who rely on sugar-cane farming do not grow any food crops. They usually wait for the proceeds from the sugar-cane so that they can buy food. Now that the sugar-cane was not delivered to the factory, the farmers have no income to buy food. Could the Assistant Minister tell us what urgent plans he has taken to take relief food to Butere and Mumias?

Mr. Munyao: Mr. Speaker, Sir, that is a difficult question, but I will still tackle it. If there is any food shortage in Mumias, please, tell us and we will give you food. The Ministry has got enough food. If there is any famine, we are ready to give you famine relief.

(Laughter)

Dr. Khalwale: Is the Assistant Minister in order to ask to be told whether there is a food shortage problem when he has heard me - I am an elected hon. Member from a sugar-cane growing area - saying that there is a shortage of food?

Mr. Munyao: Mr. Speaker, Sir, the Government knows that there is food shortage in Baringo and it is providing the food there. If there is food shortage in Mumias - I know Mumias gets rain all the time - we are ready to do what is necessary.

(Laughter)

Mr. Oparanya: Mr. Speaker, Sir, we are all aware that there is dumping of sugar in this country. Could the Minister tell us, for the last six months, the companies that have imported sugar into this country and who the owners are?

Mr. Munyao: Mr. Speaker, Sir, let me first declare one thing; that the NARC Government knows very well that it was voted in overwhelmingly in Western and Nyanza Provinces because of its sugar-cane policy. For that reason, we cannot repeat what KANU did because they were voted out for neglecting sugar-cane farmers. We are, therefore, concerned about the sugar-cane farmers in that area.

Mr. Speaker, Sir, as at now, we have no record of--- I am ready to be told anything, even by the former Ministers who, perhaps, might have allowed the importation of that sugar which is on the high seas. I will be ready to be told anything because we are not aware of any sugar coming into the country.

(Laughter)

Dr. Godana: On a point of Order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Kimathi! There is a person already standing on a point of order.

Dr. Godana: Mr. Speaker, Sir, is the Assistant Minister, who is in charge of the Ministry of Agriculture and Livestock Development, which deals with the production, exports and imports of agricultural commodities, in order to tell us that he does not know about imports; that he does not have the figures?

Mr. Munyao: Mr. Speaker, Sir, I am in order. For one not to be aware is also allowed in the Bible. So, we are not the only ones.

(Laughter)

If there is anything beyond what we know--- We have no information---

Mr. Speaker: Mr. Wetangula what is it?

Mr. Wetangula: Mr. Speaker, Sir---

Mr. Speaker: I will come to you, Mr. Kimathi. Order!

Mr. Wetangula: Mr. Speaker, Sir, the question was very clear and simple. Could the Assistant Minister tell us who the barons who are importing sugar to grab the market and destroy the sugar industry in the country are? If he does not have the facts, he can tell us that he will bring them another day, but he cannot stand up and pretend to be asking another question in relation to the already asked question. Is he in order?

An hon. Member: Another point of order.

Mr. Speaker: Order! We cannot have

more than one.

(Laughter)

I hope, Mr. Wetangula, you are not also saying that the Assistant Minister cannot take refuge in the Bible.

Mr. Wetangula: Mr. Speaker, Sir, he must face this House and give us the facts. With a Bible or no Bible, he has to fry himself in his own oil.

Mr. Munyao: Mr. Speaker, Sir, I will be ready to co-operate if the hon. Member knows of any sugar that is being imported because in our Ministry we have got a committee to monitor what is happening, but there is no information. We are ready to co-operate and take the right action.

(Loud consultations)

Mr. Speaker: Order, all of you! I think I will give the last point of order to Mr. Kimathi. He has been there the longest.

But I wish to remind this House that when the Sugar Act was being dealt with last time, there was quite a lot of controversy as to what should be and what should not be in the Act. I remember this sugar issue has been cropping up several times and I said this sugar business is taking too much of our House time without it being addressed. I hope the Assistant Minister will address this issue. This issue has been with us now for about five or six years.

Mr. Kimathi, what was burning you?

Mr. Kimathi: Mr. Speaker, Sir, I would like to ask the Assistant Minister whether he is aware that right now, as he denies that he has no knowledge, even when we are aware, more than 20,000 tonnes of sugar are currently at the port? If he refuses to believe us, we can board a plane and go to Mombasa. We want to

know the name of the person who has been importing sugar in the last six months since the NARC Government took over. We do not want to import agricultural products because Kenya is an agricultural country. We want to import only what we do not have.

Mr. Munyao: Mr. Speaker, Sir, let me address myself to the first comment. It is very true that when the Sugar Act, 2001 was passed there were a few loopholes here and there. My Ministry has got a committee looking into what can be corrected now and that will be reported in this House and handed over to the relevant Departmental Committee.

On the question which was raised by the hon. Member for Lari, I accept the challenge, but there are no facts to support what he said. The hon. Member told me that there are 20,000 tonnes of sugar at the port without telling me who is involved and that is not enough.

Mr. Nyachae: Mr. Speaker, Sir, it is very sad that we can mislead ourselves and the whole country. Is the Assistant Minister right to mislead this House? There is sugar coming in every two weeks and the records are with the Customs Department which is under the Government. He can confirm this. Even right now we know there are two ships on the way. We can confirm that two ships were cleared last week. The Assistant Minister should not mislead this House. He should just confirm that he is not co-ordinated.

Mr. Munyao: Mr. Speaker, Sir, I respect the hon. Member and he knows that. He has also been a Minister in this Ministry and he knows what he is saying. At the moment, we are not aware of any illegal sugar coming into the country.

Hon. Members: No!

Mr. Munyao: Listen to me. I am ready to listen. We know we do not produce enough sugar. There might be some balances here and there. If there is, I would like to know.

Prof. Olweny: On a point of order, Mr. Speaker, Sir. I think the Assistant Minister is not in order to tell this House that he does not know about the importance of sugar in this country and yet the Assistant Minister himself has been taken to court by sugar importers for gazetting sugar importation regulations. Is the Assistant Minister in order to mislead this House?

Mr. Speaker: Order! Learn how to do it next time. What is the last question?

Dr. Godana: Mr. Speaker, Sir, in view of the very shoddy manner in which the Assistant Minister has tried to answer the Question and the passion and interest that this matter has raised in the House and outside, would I be in order to request the Chair to direct this Assistant Minister to go back, research and come back to this House with a better answer?

Mr. Munyao: Mr. Speaker, Sir, this Assistant Minister might not wait to be directed. What I will promise you is that I will investigate and let you know the facts. We know we earned serious support because of the sugarcane policy. Give me one week and I will bring an answer.

(Loud consultations)

Mr. Speaker: Order, hon. Members! I am still in charge here, so everybody must obey my order. The Assistant Minister has one week to get the answer.

I am afraid we have gone too far. So, Mr. Korir, I truly apologise, but I direct that your Question by Private Notice ranks first on Tuesday. I really apologise, but we have taken too long on Questions and we cannot go any further than that because we have to go to business. I will give a chance to one or two Members who wanted to seek Ministerial Statements, strictly one minute each.

DIVERSION OF RIVER WASEGES

(Mr. Korir) to ask the Minister for Water Resources Management and Development:-

(a) Is the Minister aware that River Waseges has

been diverted for irrigation upstream around Subukia area, leading to scarcity of water downstream?

(b) What steps is he taking to ensure that the river course is not tampered with to avert conflicts, which may arise as a result of water shortage?

(Question deferred)

POINTS OF ORDER

DISABLED PEOPLE AT PARLIAMENT GATE

Maj. Madoka: Mr. Speaker, Sir, as from yesterday, we have seen people with disabilities at the gate who have camped there. May we, please, be told what is happening so that we do not continue seeing these people at the gate?

Mr. Speaker: You are quite right. What do they want? Who knows what they want? Mr. Balala, what do they want?

The Minister for Gender, Sports, Culture and Social Services (Mr. Balala): Mr. Speaker, Sir, I really do not know what they want but I believe there is a Bill that is being tabled here today for the Second Reading and they have vested interests in it. I believe they are waiting for the results of that Bill. There is nothing more that I know about that matter.

Mr. Muite: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to mislead the House that those physically challenged people are here because of the Bill, when the truth of the matter is that these are hawkers who have been chased away by the Ministry of Local Government? They are here to protest and ask that they be allocated space where they can sell their wares. That is why they are there.

Mr. Speaker: Order, hon. Members! Whatever the situation, I truly sympathise with those physically challenged people who are camping at the gate of Parliament. I think it is the duty of the Ministry concerned to have dialogue with them. If it is the Ministry of Local Government, Mr. Maitha should have dialogue with those people to sort out their problem.

I would also like to advise them that the Ministry of Local Government is located at Jogoo House and not here in Parliament. So, will somebody help? I will appoint Mr. Ojode, who is now sitting in the place of the Leader of Government Business, to now go out there and tell those citizens of Kenya that the Ministry of Local Government is located in Jogoo House. They should try to get Mr. Maitha to wait for them there. If they do not know where Jogoo House is, could you, please, help

me and show them the way?

The Assistant Minister for Lands and Settlement (Mr. Ojode): I will do so, Mr. Speaker, Sir.

Mr. Speaker: Thank you, very much.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. Would I be in order if I asked the Government to release the money we raised for the physically disabled people to buy a premise here in the city centre so that they can do their business amicably and peacefully?

Mr. Speaker: Mr. Angwenyi, you know you talked without my permission? So, that does not require a response. Let us hear Mr. Kombe, then I will go to Mr. Wamwere and finish with the Minister. Be brief; one minute each.

WITHDRAWAL OF PALM WINE LICENCES

Mr. Kombe: Thank you, Mr. Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Trade and Industry. I would like to know what led to the withdrawal of the licences for palm wine and yet the dealers used to be licensed by the former regime.

Mr. Speaker, Sir, I really do not know what was added to the ingredients of the wine to make it illegal at this particular time.

Mr. Speaker: Very well. Mr. Koigi!

INDISCRIMINATE SACKING OF RIFT FLORA WORKERS

Bw. Wamwere: Bw. Spika, mwezi wa nne, nilitisha taarifa kutoka kwa Waziri wa Kazi, ambayo hata sasa sijaipata, kuhusu ni kwa nini Wizara yake inakataa kuwasaidia wafanyikazi katika shamba la Rift Flora ambamo wafanyikazi wanafutwa kazi bila kisa. Wengine wanafutwa kwa sababu wamejifungua; wengine kwa sababu wameingia katika chama cha wafanyikazi. Kwa nini wananyimwa marupurupu yao ambayo ni ya haki? Kwa sababu Waziri muhusika yuko hapa, anaweza kusema ni lini ataleta taarifa hiyo katika Bunge?

The Minister for Labour and Human Resource Development (Mr. Balala): Mr. Speaker, Sir, we had the response but Mr. Wamwere was out of the country then. Now that we are aware he is back, we shall bring the response.

Mr. Speaker: Very well. Next Order! Order! Order! Order, Mr. Wamwere! You must learn never to speak without being given permission from the Chair. That is the only reason why I get paid!

(Laughter)

Mr. Speaker: Now, what was your problem?

Mr. Wamwere: Bw. Spika, niwie radhi. Jambo ambalo ningependa kuuliza ni kuhusu ahadi ya Waziri. Hasa, ni siku gani ataleta hiyo taarifa; kama ni kesho au kesho kutwa, au mtondogoo; ni lini?

Mr. Speaker: Waziri Balala, when are you bringing the report?

Mr. Balala: On the Tuesday that falls two weeks from now.

Mr. Speaker: Very well!

(Loud consultations)

Mr. Speaker: Order! Can we listen to this Minister?

MINISTERIAL STATEMENT

NOMINATION OF KENYA ANTI-CORRUPTION ADVISORY BOARD MEMBERS

The Minister for Justice and Constitutional Affairs (Mr. Murungi): Mr. Speaker, Sir, I would like to make the following Ministerial Statement. I wish to bring to the attention of the House that the Anti-Corruption and Economic Crimes Act 2003, came into force on 2nd May, 2003. Under Section 16 of that Act, several bodies are required to nominate two members, to be nominated by this House, to be Members of the Kenya Anti-Corruption Advisory Board. As the Minister responsible for integrity issues, I am now tabling under paragraph 1(iii) of the second Schedule of that Act, a list of nominees that I received from various bodies for approval by this House.

Mr. Speaker, Sir, the nominees are as follows;

(i) The Law Society of Kenya has nominated Mr. Ahmed Nassir Maalim Abdulahi and Mr. Mohamed Nyaoga.

(ii) The Institute of Certified Public Accountants of Kenya has nominated Mr. Richard Boro Ndung'u and Mr. Joseph Wamae Wangai.

(iii) The International Federation of Women Lawyers (FIDA) has nominated Ms. Fatuma Gichari and Mrs. Florence Jaoko.

(iv) The Federation of Kenya Employers has nominated Mr. Tom Owuor, and Mr. Walter Mukuria.

(v) The Central Organisation of Trade Unions (COTU) has nominated Mr. Francis Atwoli and Mr. George Muchai.

(vi) The Association of Professionals Societies of East Africa has nominated Mr. Sylvester Charles Murumba Wafula and Mr. Baldip Singh Lihal.

(vii) The Architectural Association of Kenya has nominated Quantity Surveyor Francis Kairo Mbachia, and Architect Julius Kibwagi.

(viii) The Institute of Engineers of Kenya has nominated Engineer D. W. Njora and Eng. Prof. A. V. Otieno.

(ix) The Kenya Medical Association (KMA) has nominated Dr. James Nyikal and Dr. Samuel K. Ndege.

Mr. Speaker Sir, we have not received nominations from the Kenya Association of Manufacturers (KMA), the Joint Forum of Religious Organisations (JFRO), and the Kenya Bankers Association (KBA). The names will be forwarded to the House as soon as they are received. It is my request, Mr. Speaker, that the list of nominees be referred to the Departmental Committee on Administration of Justice and Legal Affairs for consideration. The copies of the curriculum vitae of the proposed nominees will be made available to the Committee and it will table its report in this House for debate, with the approval of one of the proposed nominees from the nominating body, which will be forwarded to the President for appointment.

Mr. Speaker Sir, the House has 14 days to complete this nomination process.

Mr. Speaker: Very well.

(Applause)

Mr. Speaker: I will order that the list be referred to the relevant Departmental Committee, and such reference will be effective on Monday, and time begins to run from then, Mr. Minister.

Mr. Omingo: I do not intend to challenge your ruling in the direction you have given, Mr. Speaker, but I am wondering because the list the Minister tabled appears to be composed of only heads of particular institutions. By heading an institution, it does not mean that you are necessarily upright. This is a bit restrictive.

Mr. Speaker: Order! Order! The Minister is obligated by law to bring what he received. He has, in fact, no power to vary it. What should happen is that those names will be given to the Committee. The Committee will return its results to this House via a Motion, and the House will then approve the several names that the Committee will have recommended. Up to that stage, you will have an opportunity to make your contribution and, at the same time, you can make your representation to the relevant committee. Do not forget that it is this House that made the law the way it is, giving the Minister no discretion. That is, by giving itself a discretion of one, and two, to disqualify one, and accept the other. In fact, if you did not give it yourself, there is the power to refuse whatever you are given. In your wisdom as a House, you passed that law, giving even the President absolutely no discretion in this affair. So you get what you create. You were a Member of the last Parliament and you get what you created.

Hold your horses!

(Applause)

Mr. Speaker: Miss. Mbarire, what is it?

Ms. Mbarire: Mr. Speaker Sir, would I be in order to raise this concern that the list seems to have men only and yet, the NARC Government said that it will ensure there would be women representation in all the decision-making organs?

Mr. Speaker: Order! Order, Miss Mbarire! I will ask you again to wait until the matter comes to the House.

Mr. Speaker: The Minister has done what the law ordered him to do.

Next Order, now!

BILL

Second Reading

THE PENSIONS (AMENDMENT) BILL

(Mr. Musila on 17.4.03)

(Resumption of Debate interrupted on 10.6.03)

[Mr. Speaker left the Chair]

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

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I wish to continue from where I left. In 1999, several civil servants were retrenched from the public service. That was because the Government was under pressure from the donor community to down-size the workforce. Promises had been made by the World Bank and a substantial amount of money, amounting to Ksh800 million, was donated towards that project.

Four years down the road, those retrenchees have not received their dues. They were given Kshs40,000 as golden handshake and told to wait for the rest. But up to now, they have not received it. The Government has set the worst example in terms of protecting the rights of workers in this country. At the time the civil servants were retrenched, they were brutally evicted from their houses, despite the fact that they had not received their dues.

I recall that in 1984, the Minister for Justice and Constitutional Affairs, then a practising advocate, instituted a suit in the High Court. That was as a result of a case of a civil servant who was fired because he was suspected to have taken part in the attempted *coup* of 1982. A constitutional reference was filed to determine whether denial of salary for 18 months was not a violation of a fundamental right under Section 74 of the constitution, which prohibits inhuman and degrading treatment.

The ruling in that constitutional reference was that, to deny an employee his or her wages even for a month is tantamount to violation of his or her fundamental right to decent living and is inhuman and degrading treatment.

Since that decision was made, the Government has had a catalogue of abuses of rights of workers. Besides the retrenchment in 1999, it has dealt with parastatal employees, particularly those of the Kenya Railways. In 1997, 6,000 workers in that corporation were retrenched by the Government. Their contracts of employment stated that one would continue to enjoy housing as a facility three months after receiving retirement dues. Up to this time, they have not received their dues and what we read in the Press is their brutal eviction from their houses, in total disregard of their terms and conditions of service.

Mr. Temporary Deputy Speaker, Sir, I am worried that even after the NARC Government took over, eviction of workers who were retrenched five years ago continues unabated. This is a very sad commentary, that we are not fighting for change with regard to the rights of workers.

Similar incidents have happened with the former employees of Kenya Farmers Association (KFA), Unga Limited and Pyrethrum Board of Kenya. Workers are being retrenched without their packages being prepared in advance. This is a catalogue of unfortunate incidents that have visited our working community in this country.

This Bill seeks to rectify those mistakes that have occurred in the past. I am aware that at the Teachers Service Commission (TSC), there have been considerable delays in paying retiring teachers their retirement packages. We were informed yesterday that one of the major problems in the TSC is the disappearance of files. This can be taken care of by computerising. We should invest in computer information technology at this point, so that corrupt employees at the TSC who hide files in order to get tips from retirees would find their efforts futile.

Most employees in the Government service are paid very little salaries. They are, therefore, not able to save or to educate their children. Everyone is looking forward to the day they would retire and get their packages, so that they can put up a house or start a business. The fact is that some of them have gone for a long time without their retirement packages.

Mr. Temporary Deputy Speaker, Sir, in answering a Question this morning, a Minister admitted that an employee called Maritim from the Ministry of Water has not received his benefits three years after retirement. This is the plight of public servants in this country. Given that their only security in life are the retirement benefits, the only investment they can make is from those retirement packages, retirees' lives have been disrupted, they are unable to pay rent; they have been unlawfully evicted from Government houses and their children have failed to go to school.

Most of them die before receiving their packages. It is, therefore, appropriate that this Bill will now rectify that anomaly. It will ensure that, if the Government has to down-size the civil service, it should have the employees' packages ready before submitting the retirement letters.

I would like to call upon the Government to settle the claims for the Civil Service employees

retrenched in 1999, and those in the Kenya Railways retrenched five years ago. This would enable us to start on a fresh note and say that, the past has been bad, but we have risen above it and started afresh in a new chapter.

The retirement age in this country is 55, and at this age, most people are still healthy and strong. If the Government continues to pay pension until the death of a retiree, then it should be a worthwhile investment, particularly for skilled workers, for the retirement age to be raised to 65 or 67 years. This would ensure that we have the benefit of experience of such people and that we are not unduly bogged down by the burden of having to pay pension up to the age of 80.

If they retire at 65, possibly, the burden would only be for 15 years. More importantly, if there are delays in the payment of pensions, then the rates of interests should be very clear. I support hon. Mwenje when he says the rates of interest should be clearly set. It should be a form of penalty for those who do not pay pension in time.

Mr. Temporary Deputy Speaker, Sir, given that the work of a public trustee is to deal with issues of succession, which is a matter of law, we need to train lawyers and put them at the district level in every district, such that they will be able to carry out the functions of a public trustee. But vesting the powers of a public trustee in a District Commissioner, who has hardly any legal skills or knowledge to administer funds under the Public Trustee Act will be a gross injustice to our people. I now recommend that the National Rainbow Coalition (NARC) Government should now try and prepare the position of public trustees at the district level who can be able to carry out the functions under the Public Trustees Act.

With those few remarks, I beg to support.

Dr. Godana: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to the debate on this Bill. I stand to support the Bill, which I think is long overdue. I want to congratulate Mr. Musila the Deputy Speaker of this House, for, indeed, bringing this Bill by way of proposed amendments to the Pensions Act.

It is clear that the management and practice of the pensions system in this country has been, and continues to be very bad. So bad, indeed, that I think it amounts to systematic infliction of injury on public servants who worked for years, and spent the better parts of their lives in the public service, and who are not in a position to switch on to other jobs. It is really a very thankless end to many careers. I say that because of the delays that every hon. Member, who has contributed to the debate on this Bill has talked about, and certainly, the immediate former speaker. Those of us who come from far-away constituencies in this country know only too well the pain and agony that retired public servants have to go through to get their last dues. Imagine a public servant who has worked for 20, 30 or 35 years in such lowly jobs; perhaps I should not call them lowly, but such not well-rewarding jobs, for example, a policeman, a chief, a subordinate staff in a dispensary and a clerk; a policeman may have been stationed in Kisumu when his home is in Manderu or Lokichogio. If he retires, his first responsibility will be to get his family and his meagre belongings home. Thereafter, he will have to look for his pension. A person who has retired to Manderu, Ileret or Lokichogio, points in this country which are more than 1,000 kilometres from here, will encounter a lot of inconveniences. Even more, the financial cost of having to travel to Nairobi, staying in Nairobi and moving between offices because a file has to be prepared, taking weeks, months and years is unbelievable!

In my constituency, 17 Administration Police (AP) officers were killed in March 1997, at Ileret by Ethiopian raiders. They came from all parts of this country. As I speak, relatives of the police officers who came from my district are yet to receive their pensions despite our having written numerous letters and bringing widows from the furthest corners of the district, about 200 kilometres away, to the district headquarters to sign some documents. In some cases, we have had to bring the widows up to Nairobi. There is a Turkana man from my constituency who died as an officer while on duty in Garissa in the 1980s, before I became a Member of Parliament. I am still struggling to get his

pension. His mother and brother are yet to receive his dues. I had to send my personal assistant twice from Nairobi all the way to Garissa, at my own cost, to bring the so-called copy files. Somehow records still disappear. When you get the records, they are not complete. The relatives are required to go and produce the original letter of appointment. In my province, public officers have to travel to Embu because people who despair will have to be sent to the district headquarters.

There are all kinds of documents which have to be prepared. Often, when retirees finally realise what is due to them, they will have already borrowed loans, their children will have been expelled from school, or they will have failed to attend to medical problems of their loved ones. In fact, the value of money, after passage of time, becomes something paltry.

Mr. Temporary Deputy Speaker, Sir, the employer has a responsibility to pay the worker the wages of his sweat. That responsibility should extend, not just to the monthly salary, but also to the dues well-earned through the pension process. Therefore, it should be the responsibility of the employer to ensure that when an employee leaves, his documents are already prepared, and with his last pay, he should receive his terminal dues. It should not be the responsibility of the employee to go and beg for what he earned through 30 or 35 years of service at the headquarters for months and years. For that reason, I support the amendments as proposed, and, indeed, wish the hon. Member went further. In view of the language used, when the hon. Member was given leave by the House to introduce the Bill, I do not know whether it is possible for us to amend it beyond what the two clauses have sought to capture.

There is a lot more in the Pensions Act that I think we will have to deal with. A widow of a pensioner is entitled to earn pension for only five years after the pensioner dies. Obviously, by the time the pensioner dies, which is mostly 10 to 15 years after becoming a pensioner, the widow will be in her 60s or 70s. She will not be at an age in which she can remarry. Widows are not often at ages in which they can seek a self-reliant livelihood. It is unfair that the widows' pension is limited to five years. I know that, that is a carry-over from the colonial period, and in this age and era of gender equity and concerns, it is right and fair that we consider changing it. Similarly, when the pensioner is a woman, the man too, should be entitled to a pension. Widow has been defined as referring to one spouse only. Here again, I think the law is discriminatory.

With those few remarks, I beg to support.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. It could not have come at a better time.

It is true that our people have been suffering. Most of them, after retirement, have not been able to get their pensions as soon as possible. That has caused them a lot of suffering. Children of some of the people who have retired have stopped going to school because of the delay in the payment of pensions. This Bill has come at a very good time.

There is something that is worrying me, which is that our pension scheme is not funded. Our pension is paid from the Recurrent Expenditure. I think that is a disaster waiting to happen. If we continue that way, very soon, there may come a time when there will be no money to pay pensions. I think it is important to realise the point that the present pension scheme is not funded and pensions are paid from the Recurrent Expenditure. If we are not careful, the problems that pensions schemes are having in countries like Germany, France and Britain will also come and visit us here. So, it is important that we, in the Government, also think of funding the pension scheme for our public servants, just like private companies do. Private companies have very good pension schemes where employees contribute about 10 per cent of their basic salary, and the employers also contribute 15 per cent of the basic salary. The money is invested and insured, such that there will never come a time when there will be no money to pay pensioners. Pensions in this country are not based on inflation. Every time we want to increase pensions, we have to bring a Bill in this House. I think, if pension was based on inflation, that would not be necessary. I also think that since the pension is not funded, it is

too little. You find a person getting a pension of Kshs500, and the bank charges are already Kshs600. So, it is not even worth collecting the money. If you take into account transport costs incurred when one goes to collect the pension from the district treasury, if the pension is not much, it would not make any sense for someone to go all the way to collect the pension.

Mr. Temporary Deputy Speaker, Sir, we are now in a gender-sensitive environment. It is high time that some of the discriminations that women pensioners go through are removed. For example, if a man retires and passes away, the wife is only entitled to a pension for five years, provided that she does not re-marry. I think that is discriminatory. There is no such requirement for a man not to re-marry to get the pension. I do not know why we insist that the woman must not re-marry for her to be entitled to pension. We should encourage women who have lost their husbands to re-marry or even be inherited, if the customs allow.

Mr. Temporary Deputy Speaker, Sir, this Bill could not have come at a better time. Sometimes, people from our constituencies come requesting us to follow their pensions and when we ask them what the problem is, they tell us that they are told to produce letters of appointment which they were given 30 to 40 years ago. Who can keep a letter for thirty years? Some, like the teachers, have been asked to bring their letters of promotions. Surely, should that be the responsibility of the pensioner or the employer? Those are some of the things we need to work on. We should remove discrimination and the same rules that apply to men pensioners should also apply to women pensioners.

With those few remarks, I beg to support.

Mr. Khamasi: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to add my voice to what my colleagues have said.

The problems facing pensioners should not have continued for all those years. I do believe that, if the former regime, and I am sure somebody is going to stand on a point of order sooner than later, had the will and heart of Kenyan citizens, they should have done something about that a long time ago, so that our pensioners do not go through the pain they undergo to get the little money that they are entitled to.

Mr. Temporary Deputy Speaker, Sir, it appears as if getting a pension in this country is a crime. First of all, it is too little and the cost of getting that little pension is too high! I have got in mind the Teachers Service Commission (TSC). Teachers, who are very important citizens of this country go under a lot of strain to get their payments. If you visit the TSC building, you will be shocked. You will really pity those teachers out there. In fact, what has happened has just added to the sort of corruption that goes on in this country. That is because without money, it is very difficult for teachers to get their pension.

Mr. Temporary Deputy Speaker, Sir, it is very sad that we still are insensitive to our own spouses in our laws. I want to add that a widow who loses her husband at about 55 years, and she is supposed to earn a pension for five years, will be about 60 years. Surely, when will that old woman ever get married to discontinue the pension after five years? I think this Act is very discriminatory, gender-insensitive, and it must be repealed immediately, so that, the widow or the widower should continue earning the pension until they die.

Mr. Temporary Deputy Speaker, Sir, I want to add to what my colleagues have said. If you come to my office now at Continental House, I have got a list of pensioners who left service seven, eight and ten years ago and have not started earning their pension. The reason that I have got that list is to help them get that pension. I have tried, as a Member of Parliament, and more often than not, I have been unable to help them to get their pension. I am just wondering if, as a Member of Parliament, I am unable to get the pension for the pensioner, how does that poor man from the village even imagine of ever getting that pension? It is almost next to impossible and that money still lies with the Government.

I think what Mr. Musila has done in his Bill is very good. We must make it very expensive for the Government to keep pensioners' money. Let us make it very unproductive business for the Government to keep pensioners' money. That way, if they ever dream of keeping it even for a month, then they will continue paying the salary of that person for that month. If it is two years, they will continue paying salaries to that pensioner for two years. It is not good business for a Government which cares for its citizens to go on keeping money from the pensioner for a period of seven to ten years. Surely, that is a Government that is completely inconsiderate, inhuman and does not care about its citizens. I hope the NARC Government will not be that sort of Government that we have seen in the past.

Mr. Temporary Deputy Speaker, Sir, the procedure which is used is cumbersome and must be made easier. That is because when one is employed, the employer knows when that person is going to retire. They know very well that, two years in advance--- In fact, I am told they are given a yellow card. They are told: "Six months from now, you are going to retire." Surely, why should they not start from the word go, when they give them that yellow card? Why should they not start preparing documentation and a cheque for retirement when that person is going to leave employment? There is no excuse whatsoever, for the Government to wait until one goes away, and then start pretending that they are now preparing his terminal benefits. It is necessary for the Government to start preparing documents before the day the man will be retiring, so that he goes home with his cheque. That way, people will not be wasting money coming from rural areas to Nairobi! Some have never even visited Nairobi! Some have been employed in Kakamega all their lives. This is the case and yet you tell them to come to the Pensions Department at Uchumi House here in Nairobi. Most of those officers come to Nairobi for the first time in their working life and wonder what they should do next. That is why some of them end up in empty offices when looking for help.

I would like to end up my contribution by saying that let us make it very expensive for the Government to keep pensioners' money.

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

Mr. H.M. Mohamed: Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipatia nafasi hii ili niijiunge na wenzangu katika kuuchangia Mswada huu ambao ni muhimu sana.

Ningependa kuanza kuuchangia Mswada huu kwa kumpongenza Mbunge aliyeuleta katika Bunge hili. Sote tunafahamu kwamba wafanyakazi wa Serikali hufanya kazi muhimu sana kwa nchi yetu. Wanapokuwa kazini, wanatoa huduma kwa nchi na Serikali yetu kwa jumla, na wanaheshimiwa sana. Shida inaanza wakati mfanyakazi wa Serikali anapostaafu. Mtu anatoka wilaya za Mandera, Moyale au Busia, ambazo ziko mbali na Jiji la Nairobi, kuja hapa kutafuta malipo ya uzeeni.

Ninafahamu kwamba wafanyakazi wengi wanapostaafu wanapata shida kubwa sana. Pia, ninawafahamu baadhi ya maafisa ambao walikuja hapa Nairobi kutafuta malipo ya uzeeni walipostaafu.

Mara nyingi, maafisa waliostaafu kutoka mkoa wetu, wanakaa Eastleigh wanapokuja Nairobi kutafuta pensheni yao kwa sababu hawafahamu Jiji hili vizuri. Ninamjua polisi mmoja wa utawala aliyestaafu kutoka eneo langu la uwakilishi Bungeni ambaye aligongwa na gari na kufa alipokuwa akirudi Eastleigh kutoka Harambee House kutafuta pensheni yake. Mpaka leo, bibi yake hajalipwa pensheni ya marehemu. Pia, kuna afisa mwingine aliyeugua hapa Nairobi kwa sababu ya baridi alipokuwa akitafuta malipo yake ya uzeeni. Afisa huyo alikuwa akifanya kazi huko Mkoa wa Kaskazini Mashariki maisha yake yote. Afisa huyo aliyekuwa amestaafu alikaa hapa Nairobi karibu mwaka mzima, akitafuta haki yake na hatimaye akafa. Mimi mwenyewe nilitoa pesa za kumzika. Yaonekana kwamba jukumu letu sisi Wabunge ni kuwahudumia wafanyakazi wa Serikali ambao walistaafu. Ningependa kusema kwamba sisi Wabunge tumepata taabu nyingi sana. Wafanyakazi waliostaafu wanaenda kwa National Social Security Fund (NSSF) hapa Nairobi kutafuta pensheni yao lakini hawalipwi.

Bw. Naibu Spika wa Muda, jambo lingine la kustaajabisha ni kwamba mfanyakazi

anapokaribia kustaafu, hupewa barua miezi sita kabla ya muda wa kustaafu kufika, ya kumweleza kwamba atastaafu. Lakini, anapoanza kutafuta malipo ya uzeeni, anaambiwa aende alete barua fulani.

Jambo hili linamfanya mtu asafiri sana kati ya Nairobi na wilaya yake. Ningependa kusema kwamba watu hawa hupata shida nyingi sana. Ninafikiri watu walikataa kuipigia kura Serikali yetu ya awali kwa sababu ya mambo kama haya. Ninafahamu kwamba watu wengi ambao walistaafu kutoka Serikali iliyopita walijiunga na Upinzani kwa sababu ya shida ambazo walizipata walipokuwa wakitafuta malipo yao ya uzeeni. Serikali iliyoko mamlakani isipojihadhari, mtu yeyote akistaafu atajiunga na sisi tulio katika Upinzani na itakosa watu wa kuipigia kura.

Mr. Khamisi: Wote wako upande huu wetu!

Mr. H.M. Mohamed: Bw. Naibu Spika wa Muda, tulidanganywa na Benki ya Dunia, International Monetary Fund (IMF) na watu wengine. Tuliambiwa tuwafute kazi baadhi ya wafanyakazi wa Serikali. Nilipokuwa Waziri katika Wizara ya Kilimo na Ustawi wa Mifugo, ninakumbuka bibi na bwana yake ambao walikuwa wakifanya kazi pamoja katika Wizara moja walistaafishwa wakati mmoja. Hiki si kisa ambacho niliambiwa bali nilikishuhudia. Nilishuhudia wafanyakazi hao wawili wakistaafishwa na hawakuwa na njia nyingine ya kusaidia familia yao. Niliingilia jambo hilo na nikaenda hadi Wizara yao, Tume ya Kuwaajiri wafanyakazi wa Serikali na Directorate of Personnel Management. Niliwauliza watu hao wawili wanataka nimtete nani, na wakaniambia nimtete bibi kwa sababu bwana yake alikuwa mzee kumliko.

Ningependa kuiomba Serikali isifanye makosa kama hayo tena. Si vizuri wafanyakazi wa Serikali wastaafishwe kabla hawajafikisha umri wao wa kustaafu kwa sababu tunataka pesa kutoka kwa IMF na Benki ya Dunia. Mkifanya hayo makosa, mtakosa watu wa kuwapigia kura kama vile sisi tulikosa watu wa kutupigia kura.

(Laughter)

Jambo lingine la kusikitisha sana ni kwamba mtu anapostaafu, hasa wale ambao walikuwa wakifanya kazi katika makampuni-- Zamani watu walikuwa wakibadilisha kazi. Inawezekana miaka 20 iliyopita ulifanya kazi katika kampuni au mahali fulani, na mwaka fulani ukafanya kazi katika kampuni nyingine. Unapostaafu na kuanza kutafuta malipo ya uzeeni, unaambiwa kwamba kampuni fulani bado haijatao kiwango fulani cha pesa zako kwa NSSF, na unaambiwa uende uitafute kampuni hiyo. Wafanyakazi wengi ambao wamestaafu wamepata shida hii wanapotafuta malipo yao ya uzeeni.

Ni muhimu Mswada huu upitishwe ili wafanyakazi wakistaafu, walipwe malipo yao ya uzeeni bila matatizo yoyote.

Bw. Naibu Spika wa Muda, kwa hayo machache, ninaunga mkono Mswada huu.

Mr. J.M. Mutiso: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Pensions (Amendment) Bill. At the outset, I would like to congratulate Mr. Musila for the foresight he had to bring this Bill to this House to alleviate the many problems pensioners face when they pursue their retirement benefits.

I have sat here and listened to the contributions made by my colleagues on payment of pension to those who have retired. From the research I carried out, I have not heard my colleagues address the root cause of delayed payment of pension in this country. I am afraid that we are looking at the problem from one side. There is the story of the proverbial seven blind men who were asked to describe how an elephant looked like, and they went on to describe it as per their perceptions of it. Why do I say this? I have done a bit of consultation on this issue because it is a problem which affects most of our pensioners and their dependants. From my research, I found out that in one year, the Pensions Department receives about 18,000 claims from pensioners; this is, notwithstanding the procedures, the formalities and the documents which have to be presented to that department for the settlement of those claims. That is just a small problem.

Mr. Speaker, Sir, without much ado, it is right to say the Pensions Department is totally and absolutely understaffed. The establishment which is supposed to hold nearly about 150 staff, is staffed by only about 50 clerks. You will remember that back in 1997 the Government laid off a number of staff through the retrenchment exercise. We as members of Parliament need to look at this problem and address it from the root and have the Pensions Department supplied with the relevant staff to manage retirement claims. I would also like to mention that the management of records plays an important role in the management of the pension scheme. I liken the record keeping in the Pensions Department to the precambrian one, as it is archaic.

Mr. Speaker, Sir, in 1998, the Ministry of Finance took the challenge to introduce Information Technology in the management of pensions. One company in the name of EASS was awarded the contract to install computers to enhance efficiency in the Pensions Department. Unfortunately - I do not want to apportion blame to the previous Government since our country has been plagued with corruption from all sides - just after installing the initial software and the initial equipment, there was a problem because there never existed a contract between these two companies. Millions of shillings were paid, but there was no basis for enforcing the contract. First, as I had said, the Pensions Department was ill-equipped with staff even to evaluate tenders, contracts and all that. It was given a raw deal. Secondly, to add insult to injury, the company has already taken the Ministry of Finance and the Pensions Department to court in a protracted battle between the sub-contractor and the Ministry.

Mr. Speaker, Sir, why do I say this? I fully support the amendment before us, whereby we are seeking to have continuation of payment of salaries to the retirees until their pension claims are processed. Moreover, we would like the dependants to continue receiving pension with interest. Simple statistics of the turnover of about 150 to 200 employees per month in a year, is piling up to millions of shillings. At a simple base rate of about ten per cent, we are talking about the Government paying between Kshs50 and Kshs100 million in form of interest, leave alone the pension. We do understand the pathetic situation of our economy, and the limitation of resources. Therefore, it is not going to be viable to have this option at this point in time without first compelling the Government to provide the necessary support. We require to have pensions promptly paid because the money is there, but the capacity to process the pensions is not there.

Mr. Temporary Deputy Speaker, Sir, for a very long time, the salaries of civil servants and other public servants have not been reviewed. Just imagine, an establishment of 57 clerical officers handling almost 18,000 claims meticulously. The Pensions Department is badly understaffed. Despite that fact, we always point fingers at civil servants in that Department, accusing them of corruption. Really, I am not trying to justify their shortcomings. However, we must appreciate the fact that in any given day, they do three times the amount of work they should do, and we expect the Department to perform miracles.

Therefore, I urge that in addition to passing this Bill into law to provide for the amendments being sought in the Act, the Minister and Parliament should set up a tribunal to look into this aspect. As it is now, we give so little and expect so much in terms of service. The Director of Pensions cannot process all the claims due in time without having adequate staff and equipment. Even as Members of Parliament, we cannot have proper information on retirement benefits because the Pensions Department is sick. I would, therefore, like to make a few recommendations as follows.

One, since the Ministry of Finance is overloaded, the Pensions Department should be transferred to the Ministry of Home Affairs, so as to ease the burden on the Ministry of Finance. That should be one of the strategic decisions that the Ministry can take. Secondly, a tribunal should be set up within the shortest time possible to come up with a report within say, six months. Thirdly, in tomorrow's Budget presentation, the Minister should zero-rate information technology equipment and computers generally. I am very optimistic that tomorrow's Budget will be good. We cannot talk about overcoming the problems of inefficiency and untimely service delivery without considering the need to

computer-network our public offices.

Before we continue lamenting about people travelling all the way to Nairobi from places such as Marsabit and Garsen, to pursue their retirement benefits, we should try to understand where the problem is. When I went to get some information from the Pensions Department this morning, I had to talk to the Director personally to get some details. I had been made to believe that it was totally impossible to access the Director. So, a lot of blame is being apportioned to her. Generally, however, despite the problems she is facing, the Director of Pensions is actually doing a good job.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on the constitutional aspect of pensions. We have talked about reforming our constitutional order and bringing about gender equality. All sorts of proposals have been made to make Kenya a better place to live in. Unfortunately, there is no single proposal touching on pensioners in the current Draft Constitution. The welfare of pensioners is not even covered under the chapter dealing with public finances. I do not know who to blame for this serious omission. So, I believe that we need to re-cast our minds and include in the Draft Constitution matters relating to pensioners.

One of my colleagues, Mr. Githae, has just said that the issue of paying retirees a monthly pension of Kshs500 or Kshs1,000 should be reviewed since that is out of tune with modern trends. So, we need to look into this aspect. That is why I said that a tribunal will look into the problem of pension in a more comprehensive way and possibly revise the current provisions to match the inflationary trends. Perhaps, even the consumer price index will be a good pointer as to how much we should improve pension benefits of retirees.

I have an historical issue to raise. If you look at the current Constitution, you will realise that the colonial Government made provision for all public servants who were serving in Her Majesty's Government just before and after Independence. I have received petitions from my constituents and people from other parts of the country, who served in Her Majesty's Government, particularly those who served in the African Kings Rifles, and should be provided for in the Constitution. These people have never received their pension. We are made to believe that the colonial government made a substantial contribution to the retirement kitty for its public servants, particularly those who served in Her Majesty's Government Army; that money is believed to be somewhere in the Treasury's Pensions Department. We have so many former soldiers, clerical officers and support staff, who were hired by Her Majesty's Government. To date, they have their records. I believe that the money has always been there, but it has never been released. So, I am also asking the Minister to see whether he can take up this issue and pay these people their dues. We do not know whether it will be an easy task, but some of us can provide information on the matter.

Mr. Temporary Deputy Speaker, Sir, yesterday, Mr. Mutula Kilonzo said that when the Kenya African National Union (KANU) forms the next Government, it will re-train retirees, so that they can be much more useful. I think that is just an empty slogan; it does not hold any water. First of all, we need to review our policy regarding the retirement age of public servants. For most countries in the developed world, particularly in Europe, America and South East Asia, the retirement is pegged at 65 years of age. When you suggest that the retirement age of workers should be raised, you should realise that such a suggestion will elicit some moral and labour questions. However, we cannot continue using the 55 years age limit as the mandatory retirement age for our workers. That is a colonial provision meant to ensure that one is laid off when one is still very active. So, he makes use of less of his active life.

Mr. Temporary Deputy Speaker, Sir, this is an issue which needs to be looked into afresh with a view to raising the mandatory retirement age from the current 55 years to 65 years. That will be in line with modern trends. We are losing a lot of manpower due to natural attrition because our lifestyles have changed. Also, we have very rare talents which we need to retain in service, so that we can have continuity. So, requiring everybody to go home at the age of 55 years is the wrong thing to do in view

of the current trends.

I am appealing to the Public Service Commission to seek ways of raising the retirement age.

I would also like to make contribution on the issue of rating, which might be a bit contentious. These are the interest rates and the bank rates. I know we had discussed this yesterday and Mr. Mwenje said that we have various rates. We have commercial rates, Central Bank of Kenya (CBK) rates and other rates which can be applied to the pensions.

I suggest that if we had a basis on which this rate could be pegged, on an annual basis, it would be good. This should then be decided by the stakeholders like the CBK, the Minister in charge and a representative of the Public Service Commission. These rates should be pegged at not less than 15 per cent of the annual interest rate chargeable. I think that would be a very fair amount.

If we talk about the existing bank rates we shall find that the existing bank rates sometimes even go to very low figures. I am proposing that we have 15 per cent as the basis because it is a fair rate for any reasonable business. We could also have any other rate as the case may be, but which should not be less than 15 per cent.

Mr. Temporary Deputy Speaker, Sir, I will be taking up that amendment at a relevant stage, perhaps after the Committee Stage, so that we can bring up this issue. I think I have persuaded the Minister and also the hon. Member who has brought this amendment to look at this issue of pensions in a broader perspective.

With those comments, I wish to support this Bill.

Mr. Mganga: Bw. Naibu Spika wa Muda, ningependa kuunga mkono Mswada huu ambao lengo lake ni kuwawezesha wanaopokea posho ya uzeeni kuendelea kufanya hivyo kwa njia ya urahisi na ya haraka zaidi. Kwa ujumla, Mswada huu una nia ya kufanya watu ambao wamefanya kazi kwa muda mrefu kuendelea kuishi vizuri katika maisha yao ya uzeeni.

Nimewasikiliza kwa makini sana wale wote ambao walichangia Mswada huu hapo awali na ninaunga mkono maoni yao yote. Kwa kweli, kama taifa tunaweza kusema tumefanya mabadiliko katika nchi yetu ikiwa maisha ya wafanyakazi yanazidi kuwa bora zaidi. Kama mishahara ya wafanyakazi ni bora kuliko ilivyokuwa hapo awali; hali ya wafanyakazi wa serikali na mashirika ya umma imekuwa bora zaidi na kuna matumaini ya wafanyakazi kupokea haki zao pahali popote walipo na wakati wowote ule ulioko, basi tunaweza kusema tumekuwa na mabadiliko katika nchi hii. Lakini kama mishahara ya wafanyakazi ni duni kama hapo awali na wanaendelea kunyanyaswa na hawapokei haki zao, basi hakuna mabadiliko yoyote.

Bw. Naibu Spika wa Muda, watu wengi wa Kenya wana matumaini makubwa na Serikali ya NARC. Kwa hivyo, wafanyakazi wa chini katika mashamba ya maua na mashirika ya umma wanaangalia kuona maisha yao yatakuwa namna gani. Kama hayo hayajabadilika, ninaweza kuhakikishia Bunge hili kwamba mabadiliko yoyote ambayo tunajidai kwamba tumepata, utakuwa ni uongo mtupu. Ningetaka kusesitiza hayo kwa sababu swala lote la malipo ya uzeeni ni lazima liangaliwe katika muktadha wa hali ya wafanyakazi kwa ujumla. Mfanyakazi atakuwa amefanya kazi kwa miaka 40. Miaka yote 40 amekuwa akitumika. Hiyo ni katika sekta ya Serikali ama ya watu binafsi lakini wakati anafikia umri wa kustaafu anakuwa na hofu.

Bw. Naibu Spika wa Muda, kwa nini? Wakati mtu anapoenda kustaafu ndio wakati anatafikana awe na raha zaidi kwa sababu anatazama ile miaka 40 ambapo amefanya kazi na amechangia katika uchumi wa nchi hii. Hata malipo ya uzeeni yamekuwa yakitoka kwake. Kwa hivyo, anaenda kupumzika ama kutumia ubongo na uwezo wake katika nyanja zingine isipokuwa pahali alipokuwa amejiriwa. Lakini wafanyakazi wengi wa Kenya wanapostaafu wanakuwa na hofu. Mwanzo wa hofu ni kwamba hayo marupurupu ya uzeeni ambayo wamekuwa wakichangia, kama hawajatenda wahalifu ama hawajakuwa na njia zingine za kujipatia mapato ya kando kando, malipo ya uzeeni hayo ni kidogo mno. Hii ndiyo sababu wengi wao ambao wameishi Nairobi, Mombasa, Nakuru na Kisumu kwa miaka 40, wanapostaafu sasa wanafikiria kurudi nyumbani kule mashambani.

Bw. Naibu Spika wa Muda, sio kwamba wafanyikazi wanapenda kuwacha yale maisha waliyozoea kuishi mijini ndio waende kuishi mashambani. Hii ni kwa sababu hali imebadilika. Hawawezi kumudu kulipa kodi ya nyumba, hawana hela za kujinunulia chakula na hawajalipwa marupurupu yao za uzeeni. Kwa ujumla, wengi wakirudi sehemu za mashambani wanaenda kufa na hiyo inaambatana na sera za kiuchumi na haki za kibadamu ambazo tunazichukulia katika hii nchi. Kama kuna watu ambao vile vile haki zao za binadamu zinavunjwa ni wazee pia. Tunazungumzia watu wengi. Wanawake kwa ujumla wananyanyaswa, watoto na watu wengine pia lakini wazee wananyanyaswa sana kwa maana tunawatumia katika viwanda na katika pahali tumewaajiri. Wakati wa kustaafu unapofika, tunawatupa kwenda kufa. Tena tunawanyang'anya haki zao. Hii ndiyo sababu tunasemba kwamba malipo ya uzeeni ni zawadi tunawapa. Hiyo ni haki yao ambayo wameifanyia kazi kwa miaka hiyo yote.

Bw. Naibu Spika wa Muda, hii ndiyo sababu wakati huu tunajadili jinsi ya kuboresha hali ya marupurupu ya uzeeni kwa njia rahisi zaidi na mapendekezo yametolewa. Ninaunga mkono wazo la kutumia teknolojia ya kisasa katika idara inayohusika na marupurupu ya uzeeni na pia tuongeze wafanyikazi katika idara hiyo. Lakini lazima tuaambatanishe mambo haya na sera za kiuchumi za Kenya kwa ujumla kama vile sera ya nyumba. Inawezekanaje kwamba mfanyikazi anafanya kazi miaka 40 lakini mwishowe inambidi atoke nyumba yake na aende nyumbani? Tumeshuhudia wafanyikazi wengi wa Serikali wakifukuzwa kama mbwa kama wale wa Shirika la Reli. Wafanyikazi wamefukuzwa kama mbwa kutoka Kileleshwa na pahali pengine baada ya kufanya hiyo kazi. Inawezekanaje kwamba hatuwezi kuwa na sera za kujenga nyumba kwa wananchi wote wa Kenya kwa ujumla mijini ili mfanyikazi akiamua baada ya kustaafu kwamba anataka kwenda kuishi mashambani, hiyo ni uamuzi wake. Isiwe kwamba ni hali ya kutolipa kodi ya nyumba ambayo inamfanya aende sehemu za mashambani.

Bw. Naibu Spika wa Muda, kwa hivyo, wakati nikiunga mkono Mswada huu, naomba kwamba wakati utakapitishwa na kuwa sheria, umuhimu ni utekelezaji kwa maana kuna sheria nyingi nzuri sana. Kama tungekuwa tunatekeleza ile Katiba ya zamani pamoja na ubaya wake, hali ingekuwa afadhali zaidi kuliko ilivyo sasa. Na kama tutatoka na hii Katiba ambayo inakuja, hata iwe nzuri kiasi gani lakini tukiendelea namna hii ambapo hatuwezi kutekeleza chochote itakuwa ni hali duni tu. Hali itakuwa ile ile. Kwa nini nasema hivyo? Mpaka sasa, kwa mfano, tuna Serikali lakini ukizunguka mijini nyumba hazijapakwa rangi na pia hazijamalizwa kujengwa ilhali wenye nyumba hizo wanapokea ada za nyumba na kuna Serikali ambayo haiwezi kufanya watu wakapiga rangi nyumba zao ama wakazimaliza nyumba zao na kadhalika. Hivyo ni kama wananchi hawana matumaini wala pahali popote pa kukimibilia.

Bw. Naibu Spika wa Muda, kwa hivyo, mimi nasema chochote tutakachopitisha katika Bunge hili, ni bure kama hatutakuja kukitekeleza na ndiyo maana ninaunga mkono Mswada huu wa marupurupu ya uzeeni. Ningetaka kusisitiza kwamba ni lazima kuwe na utekelezaji. Pia, ni lazima Serikali nayo iamue kama inawatetea wafanyikazi wa Kenya au waajiri kwa sababu wale watu ambao hawana shida na yale marupurupu za uzeeni ni wale mabepari au waajiri hasa wale wafanyikazi wenye mapato ya hali ya juu zaidi katika Serikali, wao hawasumbuki. Wale wanaosumbuka ni wafanyikazi wa kawaida na wakati mwingi hawana matumaini kwa vyama vya wafanyikazi kama vile COTU kwa sababu havitetei maslahi yao. Wafanyikazi wana haja ya kuwa na vyama vingine vya kutetea maslahi yao. Mara kwa mara tunaona Serikali inanyamaza kuhusu msimamo kati ya wafanyikazi na waajiri na onyo langu ni kwamba kesho wafanyikazi wa Kenya na mafukara kwa ujumla watapima Serikali hii kutokana na jinsi inavyowatendea.

Bw. Naibu Spika wa Muda, mimi naunga mkono Mswada huu nikisisitiza ya kwamba Serikali ichukue msimamo upande wa wafanyikazi. Mishahara yao ni duni sana na hali ya wafanyakazi ni ngumu sana. Haitoshi tu kujadili jinsi ya kurahisisha hali ya kupokea marupurupu ya uzeeni. La muhimu zaidi ni kuhakikisha kwamba marupurupu ya uzeeni yaongezwe ili yamwezeshe mfanyikazi

kuishi maisha mazuri mpaka mwisho wa maisha yake.

Kwa maneno hayo, naomba kuunga mkona Mswada huu.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill because the intentions are very good. There is only one danger that I would like to draw to the attention of Mr. Musila, so that during the Committee Stage, or when we come to formulating the rules, we can address it. It is a very good idea to give a golden handshake of 50 percent of pension to retirees before they retire. That in principle is a good idea. However, the danger is that we have seen very many people--- I ask for a pardon in advance from my male colleagues. Many men keep their *mama watoto* at home in *mashambani*. The minute this man receives the golden handshake, *anaingia* River Road *kutafuta ndogo ndogo*.

(Laughter)

There are very many places in Nairobi written: "Special rooms for our visitors." When he goes in there, he is made to forget completely the wife he has lived with for many years. For a month or two months, he lives there with this *ndogo ndogo*. He will only remember to go to home when he finishes the golden handshake. Here, there is a danger. He is made to forget his wife and children who are waiting for him at *mashambani* to go and start a small business like a posho mill. There are many men who have done exactly that.

So, as we promote this idea of a golden handshake, can we think of providing in the regulations that a wife be there before the man is paid his golden handshake? We have done that with regard to the sale of land. One cannot sell land any more unless the wife comes and consents. So, the wife should be there when the golden handshake is being given out. In fact, we should split it into two and give a half to the wife and the other half to the man. This is because if he wants to spend his half here in town, the other half will be waiting for him and his wife will be able to look after him. This is a danger we need to cater for. It is a very real danger. The idea is good, I support it. We should ensure that pension actually goes to where it is intended; namely, for the support of the wife and the children of the person receiving it.

Mr. Temporary Deputy Speaker, Sir, the second point I would like to make is that in the old days, we all remember, the Kenyan pound was equal to the English pound. Its value was Kshs20 and the cost of living was constant. If you look at the other economies, they never allow their currency to fluctuate beyond five percentage points. So even when you are fixing the pension and you know what you are likely to be getting when you retire, you know that amount will enable you to live in dignity. However, we allow the cost of living to completely go out of hand so that when you get the pension, that amount is actually meaningless. We need to be more radical in the management of the pension fund. If you go to a country like Singapore, they do not wait to give the retirees money. They construct houses with that money so that when a retiree retires, he has a choice of selling that house, leasing it out, or even living in it. We need to be more creative in how to add value to the pension fund when the workers are still working. Let us go and look into ways or, perhaps, borrow this concept of building houses. If that money was to be spent in building houses, when we are borrowing money from donors, let us get a portion and put it into the pension fund, so that we can construct these houses in the urban centres and rural areas. This is because in the urban sector, the retiree can actually lease out that house and, therefore, get an income which is much higher than the amount that they are now currently being paid for pension.

Mr. Temporary Deputy Speaker, Sir, the third point I would like to make is that one cannot talk about the Pensions (Amendment) Bill without mentioning the retrenchees from the Civil Service. When Mr. Ntimama was the Minister in charge of the Civil Service in the Office of the President, we were told that the World Bank had availed money for the retrenchment exercise. The retrenchee was

to be paid Kshs200,000 each. As we all know, they were only paid Kshs40,000. Now that there is another Government in power, could they go and ascertain the facts? Is it a fact that the funding Kenya got from the World Bank was meant to pay these retrenchees Kshs200,000? If it is so, where did the balance of the money go? Where did it disappear to? Could this individual Kenyans, who had served this Republic during their best years in their lives be paid the balance? This is because Kshs40,000 is grossly inadequate. If, indeed, the World Bank gave the money, let them be paid the balance of that money.

Mr. Temporary Deputy Speaker, Sir, the other lot that have suffered a lot are the employees of the former Kenya National Assurance Company Limited (KNAC), which was a Government parastatal. They got sacked when the parastatal went under without any payment. We know for a fact that, that company had many assets. I would ask the Government and the hon. Minister concerned, to remember those former employees of KNAC who are now languishing without payment. Even these physically challenged persons who are camping at the Gate of Parliament are trying to work for their living. Nobody is giving them a pension. They are providing a pension for themselves. They are a special category. If the City Council of Nairobi is looking for ways and means---

Mr. Twaha: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member that it is not only the employees of Kenya National Assurance Company who lost money. Many teachers who held insurance policies with the company lost their money. Their salaries were deducted and their contributions remitted to that company.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I appreciate the point of information.

Still on the issue of pensions, the Ministry of Local Government and Nairobi City Council, should be compassionate about self-employed people like these physically challenged people. They are referring to special needs because they cannot go on competing with the other hawkers. Surely, we, as a nation, should be able to get a small corner and allocate it to them, from where they can sell their wares so that they can also get something to live on now and when they grow old. It is a way of providing for their pension.

Mr. Temporary Deputy Speaker, Sir, the other area which we cannot fail to mention, when we talk about pensions, is the National Social Security Fund (NSSF). One is not being vindictive here. This is workers' money that will be given to them when they retire. It is an open secret that billions of shillings have been siphoned out of NSSF by individuals who do not require that money, because they have got enough. This is money that has been deducted from messengers, drivers and everybody. This is money that must be returned. There is no choice. Those who have taken money from NSSF, from the time it was established up to now, must return it. Every shilling must be returned by those who have taken it with interest. The only thing I would urge the Government is that in order not to be seen to be vindictive, because I believe the objective is not to be vindictive, those who offer to refund that money should not be followed in terms of being sent to Kamiti Maximum Prison. I spent only three weeks there, but it is not a very nice place. If they return the money, they should not be followed in terms of being sent to prison. We should give them *quasi* amnesty. Those who do not return the money should be made to refund it, be prosecuted and send to Kamiti Maximum Prison and other places.

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

Mr. Angwenyi: Thank you very much, Mr. Temporary Deputy Speaker, Sir. Of course, I would like to thank the hon. Member who moved this Bill because Kenyan citizens who have retired either from the Public Service, military or private service, have been condemned to slavery.

Mr. Temporary Deputy Speaker, Sir, as it has been very clearly explained by the preceding speaker, hon. Muite, there is a law in this country which allows workers to be deducted money which is in turn deposited with the NSSF. Those deductions have made some people billionaires in Kenya. The deductions from millions of Kenyans have been channelled to a handful of corrupt people in this

country and they have become millionaires. They have become millionaires, for example, by selling sometimes non-existent properties to NSSF without regard whatsoever to the contributors of those funds.

Mr. Temporary Deputy Speaker, Sir, you do know that the NSSF building was supposed to cost Kshs300 million, but it ended up costing Kshs3 billion. That is one issue that I believe the NARC Government should pursue with a vengeance. The people who escalated the cost of constructing that building should be apprehended and made to refund the Kshs2.7 billion in form of escalated cost back to NSSF with interest.

Mr. Temporary Deputy Speaker, Sir, in fact, I would not be as kind as hon. Muite to say that they should be imprisoned in Kamiti Maximum Prison. Being imprisoned in Kamiti Maximum Prison is much less harsh than the mode of punishment that is being applied in Korea. I was in Korea a week ago and everybody who has been found to be corrupt including the preceding three Presidents of the Republic of Korea have ended up in jail and they have paid up for their corrupt past. So, the people who looted the extra money to the tune of Kshs2.7 billion in constructing the NSSF building should be apprehended and made to pay back that money with interest and if necessary, pay it back when they are at Kamiti Maximum Prison.

Mr. Temporary Deputy Speaker, Sir, the NSSF funds have really been misused. Members of PIC and PAC know that people have sold non-existent properties to the NSSF. Actually sometimes they have bought paved roads. The Uhuru Highway has been bought with NSSF funds and somebody has pocketed that money. The NSSF invested in excess of Kshs4 billion in the National Bank of Kenya (NBK). At that time, the share price of NBK was Kshs26.50 and after they had bought those shares worth Kshs4 billion, the share price plunged down to Kshs3.50. The workers of this country lost in excess of Kshs3 billion again after the prices of NBK shares plunged downwards. They had been forced to invest in that bank by a just Government of Kenya for the welfare of society and a just Government of men. The Government should have taken care of its workers. Instead, it was used to channel those funds to that bank and defraud, to a very large extent, the workers of this country.

Mr. Temporary Deputy Speaker, Sir, we know everything about NSSF. My hon. colleague said something about the Kenya National Assurance Company (KNAC) where the policy holders and beneficiaries of various retirement benefits schemes in this country including university lecturers lost their money. I lost my own money. I was a contributor in KNAC as a worker at the University of Nairobi and I lost money there. I have never been paid and yet people who took that money are known. The Ministry of Finance which is supposed to be in charge of that industry knows the people who took the money and they have never charged them in a court of law so that I can receive my retirement benefits. I have actually served well the people of Kitutu Chache because they have elected me to come to this House twice and maybe now I will get a pension. My pension dues were consumed by KNAC without recourse.

Mr. Temporary Deputy Speaker, Sir, to show how our Government disgracefully handles its senior citizens who have retired from their jobs, look at the recent incident where people who were retrenched from Kenya Railways Corporation (KRC) were evicted from houses of KRC so that other people could rent them and yet they had not been paid their retrenchment dues. This unrealistic attitude by the Government towards its people must stop. We were told recently that KRC was selling its properties and they had a fund out of which proceeds the retrenched would be paid some of their terminal benefits. However, those properties were given out like tissues or graffiti to who-is-who in the Government. They did not pay for the properties. I am urging this Government to pursue every single property sold by KRC in the last four or five years, get their collective value and publicly return it back to the KRC so it can generate resources and pay the poor retired workers of KRC.

Mr. Temporary Deputy Speaker, Sir, the Government of Kenya and this Parliament should not accept the World Bank and IMF conditionalities that require us to retire a person who is 25 years old

under the name of retrenchment. There is no country in the world where that happens. For instance, it would be strange if you were to go to university, finish your studies when you are 24 years old, start working on your 25th birthday and then you are retired six months later under the pretext that you are too old and you must go home. This is a country which has got contradictions where we retire people who are 25 years old and we do not even pay them their retirement benefits while on the other hand, we are recruiting people who are 67 years old. This is a strange country! I wish I was a writer. I would really write a lot of fable stories on Kenya. This is a country where you retire a young man or woman aged 25 in accordance with conditionalities of the World Bank. However, the same bank will not stop you from hiring somebody who is 70 years old. This man or woman of 25 years is not allowed to seek another job after he has been retrenched. If you cannot afford to protect such young people, why should we pass a law in this House to say that parents must take their children to school compulsorily or that parents must bring up their children properly? Why has the Government retrenched persons who are 25 years old?

Mr. Temporary Deputy Speaker, Sir, what I am saying is that this House must enact laws that will protect the elderly people or people who retire on their own volition. In other countries, when one retires, one does so at a given level and one's pension is fixed at a particular level, but is adjusted every time there is a change in the inflation rates. If, for instance, one retired when the inflation was five per cent, then it goes up by 20 per cent or 100 per cent, as it sometimes does in Kenya, then, one's pension is adjusted accordingly. But in Kenya we do not practise that, yet, such a measure would assist the poor people of our country.

Mr. Temporary Deputy Speaker, Sir, I hope when this Bill reaches the Committee Stage, this House will make the necessary amendments, so that we require the Government to adjust pension dues according to the inflationary changes.

Mr. Temporary Deputy Speaker, Sir, this is a country where we do not take care of our workers whether they are working or they have retired. This is a country where a Minister wakes up one morning and suspends a whole cadre of supplies officers. I do not know what policy he uses. The Minister is not the Public Service Commission which hired these officers! What kind of Government do we have in this country? We used to complain about Moi. Kenyans voted for Moi to become the President. Although he was an institution unto himself, Kenyans voted for him. But here, we have a Minister who was elected by one per cent or less, of Kenyans and yet he wakes up one morning to say: "I am now the Public Service Commission". I do not know the law which he used to suspend a whole cadre of officers - people who applied for the jobs, were interviewed and found to be qualified to hold those jobs. These people have been conducting those jobs, but just because of a few, who may have made mistakes, he condemns the whole cadre under the guise of imposing collective punishment. Which law of this country allows one to impose collective punishment? Early this year, somebody alleged that there was a person in this House who had done something wrong at the Continental House. The whole Parliament would have been condemned for that if he had done anything wrong. We would have been condemned and punished for it. Since we have got the CID, intelligence officers, and even supervisors, and it was found out that the Supplies Department was rotten, then the Minister himself should have resigned. If you are responsible for an institution and it does not perform and you find that it is wanting, then you should resign. That is what civilised societies do. You do not stand up one morning and say you have condemned the institution.

Mr. Temporary Deputy Speaker, Sir, collective punishment in this country should not be allowed. Actually, if we wanted to deal with the people who have destroyed the economy of this country, we ought to have started with the co-operative officers, because they have destroyed the co-operative movement and the coffee industry which forms the back-bone of the economy of this country, generally. They have destroyed the backbone of the economy of this country, but we do not want to condemn them wholesale. We want to show the Minister for Finance that we do not condemn

people wholesale. Those people should be reinstated to their jobs and those who have committed crimes should be apprehended and charged in a court of law. We have got the Judiciary, the Legislature and the Executive. If somebody has committed a crime against a law of Kenya, the only person who can decide that he has committed that offence is the Judiciary. If we find another institution of Government is trying to usurp the power of the Judiciary, this Parliament is entitled to defend the Judiciary. How do you defend the Judiciary? A good example is by not passing the Budget for that Ministry until it corrects itself first and stops usurping the powers of the Public Service Commission and the Judiciary of Kenya.

The working conditions in this country are very poor. You have seen where people live. Civil servants used to have houses in this country, but they have been dished out to grandmothers; some of them who are dead. Some of them will bring out unexpected children who will be born ten years from now such that our civil servants cannot get a proper place to stay and yet we expect to get proper service from them.

In this Bill we should include a provision to cater for the conditions of service for our people so that we do not work our people so much. By the time a person retires at the age of 55 years, he is a carcass; he is no longer a human being. No wonder the Government does not want to take care of them because the conditions of service are so poor. We do not think about them. We think about importing sugar to destroy our workers in the sugar industry. If you are appointed a Minister today, you start thinking of ways of making money out of the sweat of Kenyans. This Parliament must come up with a law to address these issues so that our workers live in a good way and enjoy being Kenyans like we used to do at one time.

At the time when we were completing our college education, we used to be employed. We were not earning much. We were just earning Kshs1,000 or Kshs1,500 but we got a Government house in areas like Kileleshwa, Kilimani and Upper Hill. The Government would also assist you to buy a house in areas like Buru Buru or Donholm. Now the Government is assisting you to live in Mathare where people are killed week in, week out. They do not assist you to buy a house, they assist you to stay there. They have built these bell-bottom houses with taxpayers money and now they want you to pay Kshs2,000 or Kshs3,000 for that bell-bottom house with one room so that you can die quickly. Maybe they will create jobs out of that.

We are saying that the cost of living and the standards of living for our people should be looked at. If we require our people to work hard and earn a living, then we should provide conditions for them to work hard and earn a living. Those people who want to live out of the sweat of Kenyans should be rounded up. We should release petty prisoners and put these people in jail so that they can tell us where they have taken the money.

As you know, our economy has been declining in the last ten or so years. In economics, you do not fire people in a recession. You do not fire people in a declining economy. Even if you gave me Kshs1 million as golden handshake, where would I invest it when the economy is declining? If you know anything to do with micro-economics, you will never fire people in a recessionary economy unless they have made a mistake or committed a crime because they will not invest anywhere. Even if you gave them Kshs10 million, they are not investors. They do not know how to handle money. They do not know how to invest and manage it. That is why they are workers. Investors are there. We should provide them with favourable conditions to get money to invest and employ more people. We should not fire the people who are in employment in a recession because even if you gave them so much money, they would still not be able to invest because there would be no opportunities for investment.

Mr. Temporary Deputy Speaker, Sir, our workers are really suffering. Mr. Musila, I hope they will thank you if we pass a good law. We went for a seminar over the weekend at Serena Beach Hotel which has got more than 400 beds and there were only 30 guests. When we, MPs numbering about

30, went there, we became 60. So, we occupied 60 beds for the three days we were there out of 400 beds and our Government is not worried. That is a disaster. People are now being sent away from their jobs. They are being fired or their salaries are being reduced. If they refuse they are sent away and the Government has not seen it fit to come to the assistance of our tourism sector. When we had the September 11 debacle in the US, the Congress met quickly and raised funds to assist their travel and tourism industry. Here in Kenya nobody has talked about it. I am really surprised! Nobody has talked about that tragedy that has affected our tourism industry.

I hope when the Minister reads his Budget Speech tomorrow, there will be a special amount in that Budget to address the issue of tourism. We need to assist our hotel operators and the 230,000 employees of the tourism industry in this country to remain in their jobs. Let us not create the 500,000 jobs by having people fired and then we say that we are recruiting 500,000 people. We must retain those who are employed and then go ahead and create jobs. You cannot create jobs unless you come to the assistance of some of the important sectors that are affected by tragedy like what we have in the Coast in the tourism industry.

This country should look at employment. The first person to create employment is the Government. You cannot tell the private sector to create employment when there is insecurity, lack of clean water, power costs are exorbitant, the road network has potholes and the railway system is not working. How do you ask an investor to invest in that kind of environment? The first person who should start creating public jobs is the Government because the Government takes money away from people and they have got it in their coffers.

A good example is the US. In 1932, the US was in a recession similar to the kind that we are experiencing right now in Kenya. The US Government collected taxes. The Government should impose higher taxes for you and I who can afford to pay those taxes. They should then take that money and create public jobs. We should be told that 300,000 public jobs have been created and they are being shared equitably in the entire country. That will give the cue to the private sector.

Why do you want me to invest when the Government does not want to invest? Why would I do that unless I am mad? Why do you expect a foreign company to invest in Kenya when the Government itself does not want to divest? Why do you want me to invest when the Government is selling its property to raise a few shillings to satisfy the World Bank and the IMF? We should look at the working conditions of our workers in this country. We should take special care of those who have worked and retired. We should make sure that the pension they get can give them a livelihood.

I was told by a very highly qualified doctor today, who is also a consultant and a gynaecologist--- She retired two years ago. She told me that she gets a pension of Kshs4,160 and you expect her not to be corrupt? If she gets Kshs4,160 for how long will she live on that? She has got to look for other jobs or medicine from the Government - I am not saying she is doing it - but if I were her and I realised I was only getting Kshs4,000 after serving for 20 years in a Government hospital and I can get some medicine from that institution so that I can earn a living, I would probably be tempted to take that opportunity.

Let us take care of our senior citizens who have retired from jobs. This Parliament must stop retrenchment permanently. If we must carry out retrenchment, we must talk to the people in a referendum. We should ask them whether they want to be retired at 25 years of age or not.

They can decide if they want to retire at the age of 25 or not. As Parliamentarians, we must come to this Parliament which creates Ministerial positions in this country and say we want to scrap this Ministry. We will say yes or no because we are the voice of the people of Kenya. If we want to sell national assets, we should either bring that matter to Parliament or we go to our people for a referendum, so that people can say: " Yes, you can get rid of this." We do not want to get to a situation whereby one Minister goes to the World Trade Organisation (WTO), and sells our rights, the rights of our children and those of our grandchildren. One person can do that, and this Parliament is

not referred to. I am saying that as we enact this law, we have to look at all the aspects of the working conditions and the livelihood of our retirees. We should also re-examine the issue relating to the imposition of conditions by the World Bank, the International Monetary Fund (IMF), The World Trade Organisation (WTO) and other bilateral donors.

Mr. Temporary Deputy Speaker, Sir, this is a funny country. I understand that someone went and signed an agreement that we cannot process our tea. My grandmother picks that tea at 5 a.m. in the morning and carries it on her shoulders or her head to the collecting centre and yet we are not allowed by international law to process it to the final stage. We must send it to Europe to be processed further before it is sold to the world market. We cannot process that coffee in my grandfather's *shamba*, in this country to add value to it and you say we are going to create 500,000 jobs? This is a laughable matter; this is Disneyland. All this is because we are following laws which are being forced down our throats, left, right and centre. We have been working with Americans and the United Kingdom (UK), but they have not paid us anything; yet, when they worked with Jordan, they gave them 500,000 US Dollars. When they worked with Turkey, they gave them 26 billion US Dollars. We went with them through the Iraq war, but how much do we get from there, so that we can give it to our people? We got zero!

With those few words, I beg to support.

The Assistant Minister for Home Affairs (Dr. Machage): Shukrani Bw. Spika wa muda kwa kunipa hii nafasi ili kuchangia Mswada huu. Miaka 40 imepita sasa tangu tupate uhuru wetu, lakini maslahi ya wafanyikazi, hasa wakongwe hayajatiwa maanani. Sheria za mkoloni zilikuwa za kunyanyasa kusudi mtu afe haraka anapostaafu. Ndipo basi, tukapewa hizo sheria hata baada ya uhuru.

Kwanza, miaka ya kustaafu iliwekwa wakati usiofaa. Namuunga mkono mwenzangu aliyesema kwamba miaka ya kustaafu iongezwe. Napendekeza miaka hiyo iongezwe hadi 60, ili mtu awe na saa za kuongoza maisha yake kidogo kabla ya kuaga dunia. Mswada huu waja kutetea maisha ya binadamu wakati ambapo hela zahitajika ukipumzika. Sisi tutapitisha Mswada huu; lakini je, wale ambao tayari wamesha staafu na hawakupewa haki zao; na tangu miaka ya 1970's mpaka sasa bado wanatafuta haki zao, Mswada huu utawanufaisha au la? Hii haki tunayoipigania wafanyakazi waipate, ije na iwe kwamba kama wakati wako wakustaafu umefika, labda kwa bahati mbaya ukafariki, familia yako kwa hizo siku 90 ambazo zimewekwa, iweze kurudishiwa gharama ambayo wataitumia kwenda kutafuta haki yako maofisini. Utapata kwamba mtu atasafiri kutoka Kuria kuja Nairobi siku nenda siku rudi, na kutumia gharama ambayo inazidi zile hela ambazo anaenda kudai. Hiyo si haki. Lazima stakabadhi hizo za usafiri ziwekwe na kudaiwa, na kulipwa. Haki itendeke kwa mnyonge pia.

Hizi hela ambazo zinawekwa kwa NSSF, wanazitumia kurundika kwa benki ambazo kwa mipango, zaumizwa na kufilisishwa kusudi waweze kupata faida. Kwa nini mfanyakazi asipate hela zake zikipata faida kwa muda wote ambao amepewa na Mungu kuitumikia nchi hii? Maanake, anapostaafu, isiwe kwamba anapewa zile hela tu ambazo alichanga na mwajiri wake, ila apate hela hizo pamoja na faida mwafaka kwa hiyo miaka yote. Tuwe kama nchi zingine ambazo mtu akistaafu, anaweza kupata wasaa na nguvu za kutembea na kuona ulimwengu.

Huku kwetu, imekuwa kwamba ukipewa baarua ya kustaafu, umepewa cheti cha kifo kwa sababu unaanza kuwa na wasiwasi, hata vile utakavyoishi. Muda si muda, suruali unaiweka kiraka. Kila wakati ambapo serikali inaongeza mishara ya wafanyakazi, iwe kwamba pia, hela za wale watu ambao wamestaafu ziongezwe kwa kiwango hicho, kwa sababu wameitumikia serikali kwa huu muda wote.

Unajua vile dhamani ya shilingi hubadilika mara kwa mara. Wewe unapewa hela za kustaafu shilingi mia tano kwa mwezi, miaka nenda miaka rudi. Ukistaafu ukinunua sukari shilingi hamsini kwa kilo, baada ya miaka mitano, itakubidi uinunue ile sukari shilingi mia tano kwa kilo moja. Utaishije? Unaweza kujitia kitanzi, ukafa kwa sababu maisha yamekuwa magumu.

Haki ya kila mtu lazima iangaliwe, awe mwanamke au mwanaume. Sasa sheria inasema mjane

mwanamke, akipata haki ya mwanaume akishafariki, eti hawezi kuolewa tena. Akiolewa tena, hiyo haki ya kustaafu anaipoteza. Lakini mjane mwanaume hata akioa wanawake watano, yeye hapotezi hiyo haki. Hi sio haki kabisa. Lazima mazingara ya kupewa haki za kustaafu yalingane kwa mwanamke na kwa mwanaume.

Serikali yetu sasa imeridhi mambo ambayo si ya kufaa kwa sababu ya makosa yaliyofanywa na serikali mbili zilizopita. Watu waastafishwa kwa miaka ishirini na tano, wakiambiwa ni retrenchment, kwa sababu ya ubeberu wa mtu fulani mahali fulani anayesema "wanyanyase hawa Waafrika". Wafanyikazi wa Serikali wakifutwa kazi au wakistaafishwa kabla ya wakati wao wa kustaafu kufika, hawapati pesa ambazo wanafaa kupata. Hiyo ni kuwanyanyasa wazalendo wa nchi hii. Kama kutakuwa na uwezo, wakati Serikali itakapoanza kuajiri watu, wale watu ambao walistaafishwa kabla ya kufikisha umri wa kustaafu, waajiriwe tena ili waishi maisha mazuri.

Bw. Naibu Spika wa Muda, sheria ya kusema kuwa mtu akiajiriwa tena ni lazima alipe marupurupu yote ambayo ametumia tangu alipostaafu si haki. Si kupenda kwa wafanyikazi kuajiriwa na kustaafishwa bila makosa yoyote kabla wakati wao wa kustaafu haujafika. Hatuwezi kusema kwamba mbio za sakafuni huishia ukingoni. Mtu anaweza kufungua mlango kidogo na akapita. Makosa yamefanywa na Serikali zilizopita. Uchumi umezorota, lakini tunamshuruku kwa kutupa Rais anayejali maslahi ya wafanyikazi wetu na walio wadhaifu. Nina hakika kuwa mambo yote ambayo yamesemwa leo na Wabunge wenzangu yatatiliwa maanani ili tuweze kufanya maisha ya yule mzee kikongwe mazuri kidogo. Wakongwe wanafaa kupata haki yao ili waweze kupanga maisha yao kabla ya wakati wao wa kustaafu. Wanafaa kupata pesa zao za malipo ya uzeeni ili waende nyumbani.

Nashukuru kuna mpango wa kuwajengea wafanyikazi nyumba ili wakistaafu, waingie kwa nyumba zao na waishi maisha bora. Watu wengi siku hizi, pesa wanazozipata ni za kutoka mfukoni hadi mdomoni!. Hazitoshi kufanya chochote, hata kujenga nyumba ya kuishi. Tunaiomba Serikali ya NARC iendelee hivyo hivyo, ili itengeneze mazingira ya wafanyikazi yawe bora kabla hawajastaafu. Naunga mkono Mswada huu kwa dhati ili tupatie wakongwe wetu heshima na taadhima wanayostahili wakati wao wa kustaafu.

Kwa hayo machache, naunga mkono.

Prof. Oniang'o: Thank you, Mr. Temporary Deputy Speaker, Sir. I am glad I have a chance to contribute to this Bill before we adjourn. Who is a pensioner?

First of all, I want to congratulate Mr. Musila for having brought this amendment to the Pensions Act here. The amendment is very timely and long overdue. Indeed, it will go a long way to improve the general attitude of Kenyans towards retirees, pensioners and ageing people. As a society, we have lost track and our moral aptitude. When the Minister for Finance says that everybody over 50 years of age should go home, he has forgotten that, in fact, he is referring even to hon. Members of this House. That means that all of us who are 50 years old should, probably, be going home. He is also sending a wrong message to Kenyans that once you are over 50 years old, you really do not matter. That is contrary to what happens in other countries such as China which, in fact, respects the wisdom of their ageing population.

In fact, I see this amendment going beyond just addressing the issue of pension. I see the amendment as a way of making sure that, as a society, we begin to respect the inter-generational issues, which we know was missing in the draft Constitution. We want to restore the aspect in order to allay the fears that the issue of pension will not be addressed. As Kenyans, we must say no to what the NARC Government seems to be doing. It is just repeating the mistakes of the past regimes. The NARC Government has the overwhelming mandate of the people, but it is abusing it. It is not kicking the ball in its court properly. Pensioners, except for a very few who are enjoying good quality of life---

Most Kenyans, who have worked in the public service and attained 55 years of age, actually look 75 years old. That is because their human rights have been abused. They have not enjoyed good medical

care, have not eaten well and have lived away from their families. They have just been struggling. Some of them, mostly men, reach the age of 55 years and say that they are still young and marry some young women. Others go and do what hon. Muite talked about; they go to River Road and spend three months in hotel rooms. They go back home when their pension is exhausted. On top of that, they carry HIV/AIDS to their wives back home. That is a sad state of affairs. I want to congratulate hon. Musila for bringing this Bill.

If we address this issue properly, we shall be able to take care of other Kenyans working in non-public institutions. There are many Kenyans working in non-public institutions, in the informal sector and in jobs which nobody knows anything about. They retire to die because they have nothing to live on. The Government should take leadership in that area, so that, it can also help the rest of the Kenyans who are not working in the public sector. The public sector wants to retrench its workers because it cannot take any more. To just add on what, hon. Angwenyi said, I have a difficulty with anybody saying that the NARC Government is performing. It cannot be performing when, in fact, it is hiring people wrongly and those who have been retrenched are more than those who are being hired.

In other countries, there are special concessions for people who have retired and the ageing. For example, if you go to a supermarket, or to buy an air ticket or in public transport, you will find that the rates for people beyond a certain age - because of the respect that is accorded that age - is much lower than what ordinary members of the public pay. In this country, when an older person enters into a matatu, he is shoved to a corner. A person who was very important in his hey days becomes a nobody because of the poor pension system. What are we telling our children and the rest of the world? We are telling them that when a person is beyond 50 years old, he should begin thinking about going to the grave when, in fact, he has the wisdom to guide this country forward.

We have to take this matter very seriously. We are in a situation where people are fearing retirement. When you begin to talk about retirement, somebody starts to suffer from all kinds of ailments just at the thought of being retired. That is because of what lies ahead after retirement. We have to create an environment where we can age gracefully, retirement is looked forward to, and where people can choose when to retire; for example, at the age of 55 or 65 years. Retirees should have adequate benefits which can enable them to live longer after retirement.

A retiree, especially a woman, should say: "I have spent all my life taking care of my family, working and taking care of society". A man should be able to say: "I have spent the greater part of my life working for the Government and now, I can take time to travel, see the rest of Kenya, enjoy my grandchildren and farm". We have to restore that in our society.

Mr. Temporary Deputy Speaker, Sir, I want to talk about the retirement age. I recall when the retirement age was lowered from 65 years to 55 years. It was to pave way for more young people to come into the job market or the Civil Service. We have forgotten about those young people. So, we have not fulfilled what we meant to do when we were lowering the retirement age to 55 years. The lifespan of a Kenyan or an African, given the HIV/AIDS pandemic, is below 50 years. For Kenya, it is 47 years. Those you see looking younger than their age is because they do not have the virus. Many of them have died. When you look in the newspapers every day, you wonder what is going to be left of this country. The retirement age for people who are healthy should be 65 years. That is because at 55 years, what are you going to do? You cannot get another job. But at 65 years you say: "I have left my professional life, I can write, do other things and enjoy life".

Mr. Temporary Deputy Speaker, Sir, you cannot enjoy life when you retire and medical facilities are not accessible to you. You cannot enjoy life when medical staff look at you, shove you off and tell you: "Look! You are too old! Your time is over!" You cannot enjoy life if you cannot access good food, transport, communication and talk to your children. So, in order to have retirees and pensioners respected and have good quality life, we have to restore the moral aptitude in this society. We have to begin to respect our ageing population. It is only when we respect our ageing

population that we can also respect the younger population.

Mr. Temporary Deputy Speaker, Sir, I want to support Mr. Mutiso when he says that the management of the pension system is completely unacceptable. I do not know what happened to record keeping as a form of training in this country. I had my son in America in 1974. I came back and lost the birth certificate for my son. When I went back to America 20 years later, I could still get that record. But here, it is a nightmare! People keep on travelling from the rural areas over long distances and they are old and tired. There is no way they are going to recover their pension because, at the end of it all, they have used it all.

Mr. Temporary Deputy Speaker, Sir, I support this Bill and hope that, in fact, we have to make sure that, as Kenyans, and especially those of us who were at the Bomas of Kenya, we get that into the Constitution.

Thank you, Mr. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Order! Prof. Oniang'o, you will have 20 minutes when we continue next time.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 12th June, 2003, at 2.30 p.m.

The House rose at 6.30 p.m.