

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th October, 2004

The House met at 9.00 a.m.

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

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.382

LEGAL BASIS FOR CREATION OF DPM

The Temporary Deputy Speaker (Mr. Poghisio): Is Mr. Kajwang not here? We will come back to this Question at the end.

Question No.397

DISMISSAL OF CONSTABLE SHEDO GUYO

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

(a) why police constable Shedo Guyo, No.16869, was dismissed from service in August, 1998; and,

(b) what benefits were due to him upon his dismissal.

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I request that we come back to this Question later, because I do not have the answer with me.

The Temporary Deputy Speaker (Mr. Poghisio): What do you mean by that, Mr. Assistant Minister? Will you bring the answer today or when?

The Assistant Minister Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I will have the answer later in the day. The officer who was handling the Question came to the office late.

The Temporary Deputy Speaker (Mr. Poghisio): That is okay. We will wait for it.

Question No.581

REFUSAL TO GRANT VISAS TO REFUGEES

Dr. Ali asked the Vice-President and Minister for Home Affairs:-

(a) whether he is aware that refugees with travel documents from North America and Europe do not get visas to Kenya;

(b) whether he is further aware that the above travel documents are recognised by the United Nations; and,

(c) what reasons are behind the refusal to grant visas.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, we are expecting the Minister of State in charge of refugees to come with the answer. I do not know where she is. Perhaps she will be here when we come back to the second round of calling out Questions.

The Temporary Deputy Speaker (Mr. Poghiso): We will move on to the other Questions. Next Question, Mr. Mwandawiro!

Question No.478

AMBULANCE FOR TAITA DISTRICT HOSPITAL

Bw. Mwandawiro alimuuliza Waziri wa Afya:-

(a) kama anafahamu kwamba Hospitali ya Wilaya ya Taita haina ambiulensi; na,

(b) ni lini ataipelekea ambiulensi.

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

(a) I am aware that the hospital has no ambulance at the moment. However, the hospital has a double-cabin Nissan vehicle, registration No.GK A278C, which is used in emergency cases. In the case of patients who are bed-ridden and require a stretcher, arrangements are made with the Coast Provincial General Hospital, Mombasa, to facilitate transfers.

(b) The Hospital will be considered for allocation of an ambulance this financial year.

Mr. Mwandawiro: Bw. Naibu Spika wa muda, ninataka kumshukuru Waziri Msaidizi kwa hilo jibu. Ingawa ninamshukuru, ningependa kusema kuwa gari analolitaja la *double-cabin* halitumiki kwa haja alizozitaja. Kuna umuhimu wa Wizara kufika mashinani na kujua kinachotendeka badala ya kuleta majibu hapa. Ninamshukuru Waziri Msaidizi kwa kusema kuwa tutapata ambulensi mwaka huu. Je, ni lini hasa, Wilaya ya Taita Taveta itakapopata ambulensi?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the process of procuring an ambulance this financial year is on-going. Once it has been delivered to the Ministry, we shall send it to the hospital.

Dr. Manduku: Mr. Temporary Deputy Speaker, Sir, the issue of lack of ambulances is serious in the whole country. As recent as last year and early this year, there were many ambulances which were distributed to many hospitals in this country. Recently, when the Departmental Committee on Health, Labour, Housing and Social Welfare toured hospitals in Eastern Province, we saw many ambulances which are not used for the correct purpose, but to ferry foodstuffs to patients. Could we know how these ambulances are distributed? Why were they only distributed to Eastern Province and not to other parts of Kenya?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the hon. Member is not giving us the true picture of the situation. The issuance of ambulances to hospitals in this country is dependant on the requirements of a particular hospital. We do not just issue ambulances to hospitals in a particular part of the country because of any reason other than need.

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Assistant Minister, are you saying that there are some hospitals in the country which do not need ambulances?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I am talking about priority. Many hospitals do not have ambulances, yet others have some which are broken down. We look at which

area is of priority and give it an ambulance. We also look at the referral nature of the situation. Where there is proximity between hospitals, one hospital can utilise facilities of a neighbouring hospital.

Dr. Galgalo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not responded to the question he was asked. He was asked why there are more ambulances in hospitals in Eastern Province than in any other place. Does it mean that Eastern Province is more of a priority than other places? He has to respond to that question.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, if Dr. Galgalo brought statistics to show how many ambulances are in Eastern Province, I would answer the question. However, if he just says something without any facts, I am sorry because to me, it is hearsay.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Questioner is asking the Assistant Minister why health centres in Eastern Province have ambulances when his district hospital does not have one. He should respond to that.

The Temporary Deputy Speaker (Mr. Poghiso): You are reframing the same question.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to avoid responding to that point?

The Temporary Deputy Speaker (Mr. Poghiso): Order hon. Members! I will not defend the Assistant Minister. However, he is saying that he is not aware of that allegation. He does not have statistics to prove what you are saying.

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

The Temporary Deputy Speaker (Mr. Poghiso): What is it? You better raise a point of order. The other time you stood on a point of order, you just rephrased the question. You did not really raise a point of order.

Yes, what is it?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to avoid responding to a question by saying that he is not aware of its facts? If he is not aware of the issue, then who is aware of it in the Ministry?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I am not avoiding the question. If the hon. Member brought me statistics showing that Eastern Province has more ambulances than any other province, I would respond to the issue.

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, about three years ago, the Ministry of Health purchased an ambulance for every district hospital in this country and I believe hon. Mwandawiro's district was given an ambulance. What happened to that ambulance and where is it?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, could the hon. Member ask hon. Mwandawiro to tell us where it is because I am not sure where it is.

Dr. Galgalo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the Assistant Minister tell me to ask hon. Mwandawiro a question? My question is directed to him. How can I ask a Back-bencher a question? Why do you not give him your position and then I will ask him the question? Otherwise, he should answer my question.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the hon. Member was the Assistant Minister for Health then. So, he is the one who should give us the answer because I am not aware. However, in any case, if hon. Mwandawiro had an ambulance, he would not have asked the Question. He would have told us that he requires one because the other one disappeared or whatever it is but I am not aware. He is asking the Question because Taita-Taveta District Hospital does not have an ambulance.

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, this is the Assistant Minister in charge of the Ministry and I know that an ambulance was distributed to that district three years ago through

money provided by NHIF. Where is that ambulance now? That is what I am asking him. He should just say where it is!

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, this was not the original Question from the hon. Member. Should hon. Dr. Galgallo wish to ask a Question, let him bring his own Question to the House and I will answer him.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order all of you! Mr. Assistant Minister, I think Dr. Galgallo's supplementary question is simply part of the original Question. Actually, the supplementary question is simply an extension of the original Question. He is demanding for the whereabouts of the ambulance and he is giving you information that three years ago an ambulance was given. So, it is either it was given or it was not given, and you should know that. That is part of the information that you should have.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, since I do not have any information about this very last question, let me find out and then I will bring it to the House.

Ms. Mwau: Mr. Temporary Deputy Speaker, Sir, the issue of ambulances in district hospitals is an issue which the Assistant Minister---

Dr. Ali: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to seek your indulgence here because the Assistant Minister said that he is not aware and if he is not aware, then he is not answering the Question. So, why do we not defer the Question and then he answers when he is able to do so?

The Temporary Deputy Speaker (Mr. Poghisio): Dr. Ali, I think that the Question, as it is framed here, is different from the one that you are referring to because the question Dr. Galgallo was asking was about an ambulance given three years ago .

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I seek your indulgence. Part "b" of the Question says: "*Ni lini ataipelekea ambiulensi*"? When will an ambulance be taken there? However, before an ambulance is taken there, he has to know where the other one went. It is an automatic question.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Now, you are arguing with the Chair.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We cannot raise questions from each constituency on a similar matter. When an hon. Member of Parliament raises a Question on a matter which touches on the nation, then we are allowed to ask supplementary questions in order to cover other areas. Is the Assistant Minister in order not to answer the supplementary question simply because it does not cover this area of Wundanyi and yet it is a matter which affects the entire country? Funds were spent from NHIF for the purchase of ambulances.

The Temporary Deputy Speaker (Mr. Poghisio): Order! Let us not argue. I have said that if you really want to ask your question, just stand up and ask your question. Let us not go by way of points of order because, if you do that, you get trapped. Ms. Mwau, you had not finished your question.

Ms. Mwau: Mr. Temporary Deputy Speaker, Sir, I was saying the issue of ambulances in district hospitals and sub-district hospitals is one that the Ministry needs to look at. For example, there is a Land Rover that was delivered last year to Nunguni Health Centre and, up to now, that ambulance is still in Makueni. The Assistant Minister says that there is no driver. When will that ambulance be taken to Nunguni Health Centre?

The Temporary Deputy Speaker (Mr. Poghismo): Now, there you are moving away from the original Question.

Mr. Mwandawiro: Bw. Naibu Spika wa Muda, sisi watu wa wilaya ya Taita-Taveta tumezoea kudanganywa. Miaka michache iliyopita tuliambiwa pesa zilitolewa kwa ajili ya barabara kutoka Mwatate kuenda Taveta na hiyo barabara inajengwa mpaka sasa. Sasa tunaambiwa kuna ambulensi ambayo ilikuwa imepangwa mwaka uliopita wa fedha na hatujaipata mpaka sasa. Je, Waziri Msaidizi anaweza kutoa orodha ya ambulensi zilizotolewa mwaka uliopita kiulaya? Ikiwa ambulensi ya Taita-Taveta itapatikana hapo, tutaongezewa nyingine ya pili kwa sababu hiyo tulipatiwa mwaka uliyopita?

The Temporary Deputy Speaker (Mr. Poghismo): How many questions are those? Mr. Assistant Minister, deal with the question of the list. Do you have the list?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I have no list because it was not part of the Question, but I can provide the list from the time the ambulances were issued from the NHIF up to today, where they are, whom they were given to and when they were given.

The Temporary Deputy Speaker (Mr. Poghismo): Mr. Assistant Minister, when can you bring that list?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, next week on Tuesday.

Mr. Bifwoli: On a point of order, Mr. Temporary Deputy Speaker, Sir. I seek guidance from the Chair. This Ministry gives answers which they do not implement. For some of us who have been promised ambulances and we do not have them, what will we do?

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

Mr. Bifwoli: Mr. Temporary Deputy Speaker, Sir, I seek guidance from the Chair.

The Temporary Deputy Speaker (Mr. Poghismo): That is not a point of order.

Mr. Bifwoli: Mr. Temporary Deputy Speaker, Sir, what is it? Excuse me, Sir!

(Laughter)

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I just wanted to request that it is not just NHIF ambulances but all the ambulances in the country, because he only spoke of NHIF ambulances.

The Temporary Deputy Speaker (Mr. Poghismo): I think the Assistant Minister will include that because he is going to answer very many questions on which health centres have ambulances and which do not have. Next Question by Mr. Kamama!

Question No.582

OPENING OF CHESIRIMION DISPENSARY

The Temporary Deputy Speaker (Mr. Poghismo): Is Mr. Kamama not here? We will leave his Question until the end. Let us move on to the next Question.

Question No.764

MEASURES TO SAFEGUARD COFFEE FARMERS INTERESTS FROM MILLERS

Mr. Manoti asked the Minister for Agriculture:-

(a) whether he could confirm if the KPCU, Thika Coffee Mills and Socfinaf are serving the interests of coffee farmers; and,

(b) if the answer to "a" is in the negative, what action he is taking to ensure they do so.

The Assistant Minister for Agriculture (Mr. Akaranga): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) The KPCU provides the following services to the farmers: Advisory services; provision of credit; management agent; milling; marketing agent; auctioneering; dealership; roasting; warehousing and coffee export. Thika Coffee Mills, on the other hand, provides the following services: Training and advisory services; provision of credit and farm inputs; milling and marketing services while Socfinaf Company Limited provides milling and marketing services to farmers. The three companies are licensed by Coffee Board of Kenya to carry out these functions under Section 18 of the Coffee Act, 2001. Farmers have complained that the milling and marketing services provided by these companies are too expensive.

(b) For these institutions to provide efficient and competitive services to farmers and hence turn around the industry into a profitable enterprise, the Government appointed an Inter-Ministerial Task Force to look into the following areas and make appropriate recommendations: The auction system; open windows for direct sale of coffee to new markets abroad; review of the Coffee Act 2001. It will also open up existing institutional frameworks for coffee marketing with a view to licensing more marketing agents.

Thank you.

Mr. Manoti: Mr. Temporary Deputy Speaker, Sir, that is a good answer from the Assistant Minister. However, coffee farmers have a lot of problems, as it takes about six months before they are paid. Could the Assistant Minister tell us what percentage these middlemen are paid and why it takes so long for a coffee farmer to be paid? What is the current market price of coffee per kilogramme?

Mr. Akaranga: Mr. Temporary Deputy Speaker, Sir, as I explained in part "b" of my answer, the Ministry has already appointed an inter-Ministerial task force which is still looking into the areas the hon. Member has raised. When this task force presents its report, we will give a copy of it to the hon. Member.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, the coffee industry is in a very poor state, especially in Gusii land. Could the Assistant Minister tell us what is being done to rehabilitate the coffee industry especially factories in Gusii land?

Mr. Akaranga: Mr. Temporary Deputy Speaker, Sir, if we go through the Coffee Act 2001, we find that, that is a sector that has been liberalised. Farmers have been given more powers to look into ways of improving the sector. However, the Coffee Board of Kenya is willing to register more people, or firms, who are willing to come in and revitalise coffee production in this country.

Mr. Kembi-Gitura: Mr. Temporary Deputy Speaker, Sir, the answer is reasonable in the circumstances, but coffee millers collect a lot of money through cess. Could the Assistant Minister tell the House how much money has been collected by way of cess and how much of it has been utilised to benefit farmers, or the people living around areas where there are milling plants?

Mr. Akaranga: Mr. Temporary Deputy Speaker, Sir, since the coming into effect of the Coffee Act 2001, in March 2002, there have been three institutions that have been offering competitive services to farmers. However, when we look at the milling tariffs, at the moment millers are charging between Kshs6,000 and Kshs8,000 per tonne. My Ministry finds this amount to be on the higher side, considering that the price is now Kshs12,000 per tonne. There is nothing wrong

with that.

Mr. Kembi-Gitura: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has gone at a tangent. He is not answering my question; I asked about cess. Could he table how much it is and how it has been utilised to benefit farmers?

Mr. Akaranga: Mr. Temporary Deputy Speaker, Sir, being patient is a very important thing. I was going to what he had asked. If hon. Members want figures on the cess, I can get the details and bring them to the House. When I was coming here, I did not bring the cess list as I had not received it. However, I can bring it next week on Thursday.

The Temporary Deputy Speaker (Mr. Poghisio): Last question, Mr. Manoti!

Mr. Manoti: Thank you, Mr. Temporary Deputy Speaker, Sir. It takes farmers about six months to be paid. Could the Assistant Minister tell us how much a kilogramme of coffee fetches in the world market? Could the Ministry arrange for coffee farmers to be paid monthly like tea farmers?

Mr. Akaranga: Mr. Temporary Deputy Speaker, Sir, as I said earlier, the coffee industry has been liberalised, and it is not the business of the Ministry to interfere in it. The tea industry is being handled by the Kenya Tea Development Agency (KTDA).

(Mr. Sambu stood up in his place)

Mr. Temporary Deputy Speaker, Sir, Mr. Sambu is interfering with my answers.

When I bring information on cess, I will also bring information on pricing.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that the coffee industry has been liberalised when the Coffee Act still determines who the millers are? They are the Kenya Planters Co-operative Union (KPCU) Thika Coffee Mills and Socfinaf! Is he in order to mislead this House? I have my own coffee, but I am not allowed to mill, sell or even roast it.

Mr. Akaranga: Mr. Temporary Deputy Speaker, Sir, if the hon. Member reads the entire Coffee Act, he will see that there are certain things that farmers have not taken care of. We need to read and understand the Act.

The Temporary Deputy Speaker (Mr. Poghisio): Next Question by Mr. Wambora.

Question No.765

DISPOSAL OF NYAYO TEA ZONES
TO KTDA FACTORIES

The Temporary Deputy Speaker (Mr. Poghisio): Since Mr. Wambora is not here, we will move on to the next Question by Mr. Too.

Question No.549

RETIREMENT BENEFITS FOR
MR. JOSEPH ROTICH

Mr. Too asked the Minister for Livestock and Fisheries Development:-

(a) whether he is aware that Mr. Joseph Kipngen Rotich, PF.No.41090 (79174177), who retired on 31st July, 1997, has not been paid his retirement benefits; and,

(b) when he is going to be paid his dues.

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) The officer will be paid his retirement benefits as soon as the Ministerial Human Resource Management Committee finalises his case in one month's time from now.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon Members! Consultations are getting louder and we are not able to follow the questions and answers. Please, consult in low tones.

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): Thank you, Mr. Temporary Deputy Speaker, Sir. As I was saying, the officer will be paid his retirement benefits as soon as the Ministerial Human Resource Management Committee finalises his case in a month's time. It has since been established that the officer qualified for pension benefits after his period of service was extended by six years on a contract basis.

Mr. Too: Mr. Temporary Deputy Speaker, Sir, this answer is three months old. Could the Assistant Minister confirm that the officer was paid?

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, I cannot confirm that, because I have yet to receive a report from the Ministerial Human Resource Management Committee. I can assure the House that by the end of November, this officer will have been paid.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is very much aware of the law that is in force currently. Does he want to contravene that law?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Bahari, you mean the current law relating to what?

Mr. Bahari: I mean the current law relating to payment of pension, Mr. Temporary Deputy Speaker, Sir.

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, I am not aware of that law.

Mr. Ngoyoni: Mr. Temporary Deputy Speaker, Sir, some of us have had the opportunity of visiting the Pensions Department at Uchumi House. It is overflowing with human traffic. What is the Assistant Minister doing to de-congest the Pensions Department?

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, incidentally, the Assistant Minister has admitted that he is not aware of the new law on pensions.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, fortunately, the Assistant Minister was in this House when that law was passed. He should not plead ignorance of a law that was passed when he was an hon. Member of this House.

The Temporary Deputy Speaker (Mr. Poghisio): Did the Assistant Minister admit that he is not aware of the law?

An hon. Member: Yes!

Dr. Wekesa: Mr. Temporary Deputy, Sir, this issue has been pending since 1999. The NARC Government is rectifying the mistakes of the KANU regime. I would like to assure the House that this officer will be paid in November.

Mr. Too: Mr. Temporary Deputy Speaker, Sir, in the last part of the written answer, the Assistant Minister says that it has already been established that the officer qualified for pension, and that his period of service was extended by six years on contract basis. What case has the Ministerial Human Resource Management Committee finalised?

Dr. Wekesa: Mr. Temporary Deputy Speaker, Sir, the Ministry has found out that the

committee that was mandated to look into this issue made a mistake, and we have since rectified it. We regret that mistake, which has necessitated this officer to undergo financial constraints. What I am saying is that the mistake was made in 1999. In fact, the issue came to our notice after the hon. Member raised it here. We have since made arrangements for the former officer to be paid next month.

Question No.559

HOUSING SCHEME FOR GONGONI

Mr. Kombe asked the Minister for Lands and Housing, what plans he has to put up a housing scheme at Gongoni to cater for the large numbers of employees working in the salt firms.

The Assistant Minister for Lands and Housing (Mrs. Tett): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

My Ministry is in the process of encouraging the company to put up houses for their staff in accordance with Clause 77(R) of the National Housing Policy that was recently passed by this House as Sessional Paper No.3.

Mr. Kombe: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is talking of a company. I am talking of salt firms. There are many salt firms. Which particular company is she referring to?

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, I am referring to all the salt firms.

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, when did private companies replace the Government in its responsibility of providing housing to Kenyans?

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, that is allowed. We are encouraging private companies to put up houses for their employees.

Mr. Ndolo: Mr. Temporary Deputy Speaker, Sir, a long time ago, the Government put up housing projects such as Uhuru Estate, in Nairobi. The Government had promised that those houses would belong to the poor people. The Government has now embarked on a slum upgrading programme in Nairobi and making similar promises. Could the Assistant Minister confirm whether the houses being put up under this programme will be allocated to the rich or the poor people of this country?

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, my Ministry is looking into the welfare of the very poor people, who live in the slums. I would like to inform Mr. Ndolo that even in his constituency, a good Samaritan has donated to us one acre of land, on which we intend to put up houses for very poor women and people with disabilities. So, the hon. Member's constituency will benefit from that project. The houses that will be put up on that land will be for the very poor. Mr. Chris Kirubi has given us one acre of land. Pamoja Trust will give us some money to up houses on it.

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, the NARC Government promised Kenyans 150,000 houses per year. About two years have now passed. How many houses has the NARC Government put up since it came to power?

(Laughter)

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, I will provide a list of the houses we have put up not only in Nairobi, but in the whole country - including the ones we are putting up in Kibera

under the slums upgrading programme - by the end of this year.

Mr. Mwandawiro: Bw. Naibu Spika wa Muda, nimekubaliana na Waziri Msaidizi kwamba makampuni binafsi yanawajibu wa kuwajengea wafanyikazi wao nyumba. Je, Wizara ina mipango gani ya kuwashurutisha watu binafsi kuwajengea wafanyikazi wao nyumba?

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, we have written, and we are still writing, to big companies such as the East African Breweries Limited. We are going to talk to them about the issue. We cannot force them to put up houses for their employees, but we will dialogue with them with a view to convincing them to do so.

Mr. Kombe: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has talked of encouraging the salt firms to put up houses for their employees. That area does not have only employees of the salt firms. There are also hotels, whose workers need housing. Could the Assistant Minister consider introducing a housing scheme for employees in Gongoni, like in other places, so that---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Kombe; you have already asked your question!

Mr. Kombe: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister talked of encouraging the salt firms to put up houses for their employees.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Kombe, you have already asked your question!

Mr. Kombe: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has talked about the funds---

The Temporary Deputy Speaker (Mr. Poghisio): Order! You have already asked your question! She has heard and she is going to answer it now!

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, the hon. Member should know that if that one failed, we also have the National Housing Corporation. We are also going to ask them to help in areas where employers are reluctant to build houses. Some of our partners are willing to do that.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is in order for the Assistant Minister not to answer a valid question on the number of houses built so far? Housing is a basic need and she is talking about the end of the year, when we may not be sitting. What happened at the end of last year?

Mrs. Tett: Mr. Temporary Deputy Speaker, Sir, the hon. Member should know that we passed the policy paper on housing in June this year. We could not move without a policy. The last regime never had anything like that.

The Temporary Deputy Speaker (Mr. Poghisio): For the second time, Mr. Kajwang!

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, I am sorry for coming late. May I, with your consent, ask Question No.382?

Question No.382

LEGAL BASIS FOR CREATION OF DPM

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

- (a) what is the legal foundation for the creation of the Directorate of Personnel Management (DPM) as contained in the Presidential Circular No.3/2003;
- (b) what its functions are vis-a-vis the Public Service Commission (PSC) as stipulated in the Constitution; and,
- (c) when it will be disbanded.

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

(a) Personnel circular No.3 of 2003 on the Organisation of the Government provides for the DPM, other Ministries and departments. Ministries and departments do not require a legal statute to establish them, but are organised by His Excellency the President from time to time. The information is communicated through a circular on the organisation of the Government.

(b) The PSC of Kenya and DPM play complimentary roles. While the PSC appoints persons to hold offices in the public service, the DPM manages and develops the same officers. Before the PSC appoints, DPM has to establish the posts and vet the intents in accordance with the schemes of service. The PSC is a regulatory and oversight body with a specific mandate within the confines of the Constitution, while the DPM provides an administrative role in human resource management issues.

The specific functions of the PSC are spelt out in the PSC Act Cap.185, Laws of Kenya, and are as follows:-

First, to appoint persons to hold or act in offices in the public service including local authorities. Secondly, confirm officers in their appointments. Thirdly, exercise disciplinary control over such persons. Fourthly, remove its appointees from office.

Mr. Temporary Deputy Speaker, Sir, on the other hand, the functions of the DPM are to develop schemes of service and career programme guidelines, formulate and review human resource management and development policies, rules, regulations and procedures, manage and develop the human resources in the public service and initiate and co-ordinate reforms. The role of PSC and DPM are, therefore, separate and distinct.

(c) In view of the above, it would be professionally unsound to base both regulatory and administrative powers on human resource management in the same body. The Government, therefore, has no intention to disband the DPM.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, if you heard the Assistant Minister correctly, he said that there is no need for a statute or any constitutional basis for the creation of Ministries, something which he knows is provided for in the Constitution. But even on top of that, he said that the DPM, therefore, is a creature of the Presidency to control the civil service. The job of the PSC was to separate and insulate the Civil Service from the Executive, so that they could do their jobs professionally. Is the DPM not created to circumvent and undermine a constitutional office of the PSC, so that the President could appoint his friends into the Civil Service?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, as I said, DPM, just like any other Ministry, is created under the same law. DPM plays a complementary role to the PSC. Their roles are quite distinct. While the PSC is there to hire civil servants, DPM is there to manage those civil servants who have been hired. So, the issue of circumventing the role of the PSC does not arise.

Mr. Sambu: Mr. Temporary Deputy Speaker, Sir, Section 16, Sub-section 1 of the Constitution states:-

"There shall be such offices of Minister of the Government of Kenya as may be established by Parliament, or subject to any provision made by Parliament by the President."

We know that Parliament created the PSC. It has never created the DPM! Is this Government condoning an illegality; going against the Constitution of Kenya?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the DPM is not an illegality. If we could go back in time, the DPM has its origins in the pre-independence days. It was initially created in 1947 under the office of the then Chief Secretary. As I said, the DPM is there purely for purposes of managing civil servants who are hired by the PSC.

The Temporary Deputy Speaker (Mr. Poghio): I think the questions are more about the

legality or the laws. The functions are okay. But Parliament did not create the DPM!

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the DPM is a legal entity.

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

The Temporary Deputy Speaker (Mr. Poghisio): What is it, Mr. Sambu? It had better be a point of order!

Mr. Sambu: Yes, Mr. Temporary Deputy Speaker, Sir, it is a point of order. Is the DPM legal or illegal vis-a-vis Section 16 of the Constitution? Is the Assistant Minister in order to mislead this House by talking about the functions, when the body itself is illegal? Is he in order?

Mr. Poghisio: Mr. Shitanda, you can respond to it as a supplementary question. It is definitely not a point of order.

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the Directorate of Personnel Management (DPM) does not usurp the powers provided under the section of the Constitution that the hon. Member has talked about.

Mr. Billow: On a point of order, Mr. Temporary Deputy Speaker, Sir. Would it be in order if the Assistant Minister went back, researched and came back with a proper answer to this House?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Billow, that is basically not a point of order.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has consistently refused to say---

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is also this side of the House and you have not heard our questions. Are there people who are supposed to be seen, but not to be heard?

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Sungu, first of all, you should have been out as was the case yesterday because when you did not catch the Chair's eye, you went ahead and spoke! Now, you are policing the Chair. You have a duty to apologise for that or you will have to face the consequences.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I was not in the House yesterday afternoon. Secondly, I can apologise reservedly. Hon. Members on this side have equal rights like any other hon. Member to be seen by the Chair. The Chair should not notice hon. Members from one side only. I apologise.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Sungu, I am not going to take that conditional apology that you have tendered. Who gives you the right to police the Chair?

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, I recognise the position of the Chair and I apologise unreservedly. I would ask for your indulgence to give me a chance to ask a question.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has consistently failed to answer part (a) of the Question, which is: What is the legal foundation for the creation of the DPM? He has not stated the legal foundation. The Public Service Commission was supposed to do all these things which they now purport to give to the DPM. What makes the Assistant Minister think that the Public Service Commission cannot appoint and at the same time exercise administrative role over resource management? What was the reason for the creation of the DPM, if it was not the Executive taking power over the Public Service Commission, so that the President and his men can put their men in the Civil Service?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the DPM does not recruit public servants. I wish to refer the hon. Member to Section 24 of the Constitution which gives the President the powers. It reads:-

"Subject to this Constitution and any other law, the powers of constituting and abolishing offices for the Republic of Kenya, of making appointments to any such

office and terminating any such appointment shall rest in the President".

The creation of the office of the Prime Minister can be catered for under this particular section.

Mr. Kajwang: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister suggesting that the President is above the Constitution of the Republic of Kenya and can create and demolish any institution in this country, including this Parliament?

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, the Constitution gives him that power.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! That is an argument. It does not even begin to become a point of order. Mr. Kajwang, you understand that.

Mr. Bahari's Question, for the second time!

Question No.397

DISMISSAL OF CONSTABLE SHEDO GUYO

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

(a) why Police Constable Shedo Guyo, No.16869, was dismissed from service in August, 1988; and,

(b) what benefits were due to him on his dismissal.

The Assistant Minister, Office of the President (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I apologise for the late arrival of the answer.

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

(a) Police Constable Shedo Guyo was dismissed from the Kenya Police Force with effect from 29th August, 1998, because he had accumulated seven disciplinary convictions. He was served with three warning letters after being convicted on disciplinary offences to reform, but instead he became a persistent offender.

(b) Under the Public Service Commission Act, Chapter 185, Section 29, a public officer who is dismissed loses all the benefits that are due to him or her at the time of dismissal. Mr. Shedo Guyo, therefore, lost all his benefits. There were no benefits due to him on his dismissal.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is misleading this House. He has talked about accumulation of disciplinary convictions or letters. After 12 months of service, a disciplinary letter lapses. The Assistant Minister is talking about an employee who had been in service for over 16 years. In law, disciplinary letters cannot accumulate after 12 months. Why is he misleading the House?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Bahari, are you on a point of order or you are asking a question?

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I am asking a question.

The Temporary Deputy Speaker (Mr. Poghisio): So, what is your question?

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, why is the Assistant Minister misleading the House that the former employee accumulated disciplinary offences? This is not true because that was over a period of 16 years of service.

The Temporary Deputy Speaker (Mr. Poghisio): Basically, if you are saying that the Assistant Minister is misleading the House, you are raising a point of order. You are supposed to get your answers through questions.

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I am not misleading the House. I want to point out to the hon. Member that Constable Shedo Guyo was, first of all, serving in the disciplined forces.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! I have said before, and I continue to say that if you need to consult with one person, please, just consult quietly. Let us not have discussions at the corner there. There is a "congregation" around there and I will be watching it!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, it is Mr. Ndile who is making us talk here. He is distributing some leaflets. I will table the leaflet.

(Mr. Angwenyi laid the leaflet on the Table)

(Mr. Ndile withdrew from the Chamber)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! We can only get so low in the way that we conduct the affairs of the House. I am surprised if it is this leaflet that is making hon. Members congregate around. We need to take care of our dignity. I hope it is not this leaflet that is making hon. Members congregate. I am not referring to the content of this leaflet, but to the conduct of an hon. Member coming to distribute fliers or papers in this House and taking off.

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

Order! All of you cannot be on your feet. For the purpose of orderly conduct of business in this House, I will ask that Mr. Ndile be excluded from the business of the House this morning.

(Mr. Ndile walked into the Chamber)

Order! Hon. Members, nobody should be on his or her feet when the Chair is on its feet! We have to keep the dignity of this House! While on my feet, I have already ordered that Mr. Ndile be excluded from the business of the House this morning.

Hon. Members: Why?

The Temporary Deputy Speaker: Order! Order, hon. Members!

*(Mr. Ndile started withdrawing
from the Chamber)*

Order, Mr. Ndile! You cannot withdraw from the Chamber when I am still on my feet! You have done it before. In fact, the reason you have to go out of this Chamber is because you walked in when I was on my feet. Again, you are doing it. Could you, please, withdraw from the Chamber!

(Mr. Ndile withdrew from the Chamber)

Hon. Members, this has nothing to do with you or me. It has everything to do with our own rules. An hon. Member cannot be on his or her feet when the Chair is on its feet! What kind of the House do you want us to have if we continue to conduct ourselves in that manner?

(Applause)

Yes, Mr. Ndolo!

Mr. Ndolo: Thank you, Mr. Temporary Deputy Speaker, Sir. We should respect this House. But it seems that even our Assistant Ministers were the ones distributing papers yesterday. In fact, it was Mr. Wetangula and Mr. Shitanda who were distributing papers yesterday. They should also be disciplined as Assistant Ministers!

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Ndolo is new in this House. He should know that we have to treat each other with dignity and respect. He knows very well that my conduct, profession and standing does not allow me to degenerate to the level that he is trying to put me in. I have just walked into this House and you saw me do it. I rise to seek permission from you to decry the falling standards of our conduct in this House, but unfortunately, you did not give an opportunity. It is wrong for an hon. Member, for reasons only known to him, and perhaps, extenuated by malice, to drag my name into an issue that I have nothing to do with. I have not even seen the leaflet that was brought to you at all. This is not proper. I demand a withdrawal and an apology to me. I am not part of the cheap gossip of this House!

The Temporary Deputy Speaker (Mr. Poghiso): Order! We have Questions to finish. Hon. Members it may excite you, or even make you rise on your feet to challenge the Chair, but there is no way we will run away from dealing with this issue of the dignity of the House. You may want to defend, or even support the actions that were going on, but this House belongs to Kenyans. Its dignity must be sustained by us and nobody else. For that matter, it is not in the best interest of this House for someone like Mr. Ndolo to rise up and name hon. Members. Again, we have rules regarding that. An hon. Member cannot rise up and say: "Hon. So-and-so has done this and that," without a Substantive Motion. You know the rules when you have to do that! I saw what happened. In fact, I had not even begun to address the issues of this paper. What I was addressing was basically the conduct of Mr. Ndilo walking into the Chamber when I was on my feet. Those are the basic rules in our Standing Orders! Already, some of you were on your feet to try and defend him for that. So, if that is okay with you, then write them in your rules. As I sit in this Chair, I use your rules to chair. I do not create my own. So, let us proceed and try very hard to respect the dignity of this House.

Mr. Ndolo, you have a duty to either substantiate or withdraw. The burden of substantiation is now, or you withdraw and apologise to your fellow hon. Members!

Mr. Ndolo: Thank you, Mr. Temporary Deputy Speaker, Sir. I apologise and withdraw. But yesterday I was sitting with them and they had papers which they distributed to hon. Members.

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

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members! We have sorted out that matter!

Yes, Mr. Kiunjuri!

The Assistant Minister for Energy (Mr. Kiunjuri): On a point of order, Mr. Temporary Deputy Speaker, Sir. Now that the Chair has noted the way the dignity of this House is really going to the dustbin, would it be in order for the Chair to consider now calling for a seminar of all hon. Members so that we are reminded of our role and how to keep the dignity of this House?

The Temporary Deputy Speaker (Mr. Poghisio): Very well. Point noted! Now, a question had been asked and the Assistant Minister was about to answer it.

Before he does so, I would like to thank hon. Members for sorting out this particular issue. I would like to assure you that you have the co-operation of the Chair anytime as long as we can respect each other.

Proceed, Mr. Mungatana!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I was just reiterating to the hon. Member that Constable Guyo has seven disciplinary cases and he had appealed to the Provincial Police Officer (PPO), Eastern Province, but his appeal was rejected. Subsequently, he appealed to the Commissioner of Police and it was also rejected. He further appealed to the then Permanent Secretary in charge of Internal Security, Mr. Leting, but it was rejected. He also appealed to the current Minister in charge of Internal Security, Dr. Murungaru, and it was too rejected. This is a disciplined force. Therefore, an officer cannot continue to serve after seven convictions in a disciplined force. That is simply not tenable.

Maj-Gen. Nkaiserry: Mr. Temporary Deputy Speaker, Sir, I think the answer given by the Assistant Minister is quite in order. But when you look at the service of the individual, that is where there is a problem. The individual served for 16 years and was dismissed. Dismissal is a punishment by itself. That man is going to lose his salary. Why is the Assistant Minister not considering that, when somebody has served for more than ten years and he or she is dismissed, he or she gets the benefits?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I appreciate the concern of the hon. Member. However, when we employ people in the disciplined forces, they undertake to behave and conduct themselves in a certain way. They take an oath before they are employed. We cannot bend the rules at this time. I have taken the points, but it will be impossible to implement them.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, before I ask the question, I would like to remind the Assistant Minister that, according to the Retirement Benefits Authority (RBA) Act, benefits are vested in an employee after five years of service. However, his letter of dismissal, the Assistant Minister took away the right of the employee to get his leave dues. Could he consider reinstating that?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I can consider that.

The Temporary Deputy Speaker (Mr. Poghisio): Very well!

Dr. Ali's Question for the second time!

Question No.581

REFUSAL TO GRANT VISAS TO REFUGEES

Dr. Ali asked the Minister of State, Office of the Vice-President and Ministry of Home Affairs:-

- (a) whether she is aware that refugees with travel documents from North America and Europe do not get visas to Kenya;
- (b) whether she is further aware that the above travel documents are recognised by the United Nations (UN); and,
- (c) what reasons are behind the refusal.

The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

- (a) I am aware that some, but not all refugees---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Madam Minister! You really need to apologise! Any Question that comes for the second time means that you were not there when it was called for the first time!

The Minister of State, Office of the Vice-President and Ministry of Home Affairs (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I apologise for not being here when this Question was asked for the first time.

However, I beg to reply.

(a) I am aware that some, but not all refugees, holding travel documents from North America and Europe have been refused visas to enter Kenya. Refugees holding travel documents are subject to visa processes like all other aliens. While some have been issued with visas, some have been refused for good reasons.

(b) I am also aware that travel documents are recognised by the United Nations (UN) and Kenya.

(c) I am further aware that visa applications are processed and approved or denied on case-by-case basis, taking into consideration the country's interests. Denial of visas is a normal outcome in the processing of visa applications, as admittance of a person into any country is a sovereign function of that State, notwithstanding the type of travel documents that, that person holds.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, the Minister has said the truth on the statutory things which are there. But the fact of the matter is that, those refugees were originally in Kenya before they were re-located to the United States of America (USA) or Europe. If somebody who is in the USA applies for a visa, why must that application be brought to Nairobi? Why do you not allow our embassies in those particular countries to process visa applications? We are losing a lot of money!

Mrs. Kilimo: Mr. Temporary Deputy Speaker, Sir, those are policies that we found in place. If the hon. Member thinks that they should be changed, he should bring a Motion to this House.

Mr. Mwandawiro: Bw. Naibu Spika wa Muda, nalielewa Swali hili sana. Nimewahi kuwa na pasipoti kama hiyo. Najua kwa kweli kwamba wakimbizi kote duniani, hasa hapa Afrika, wanapata shida sana. Ikiwa nchi yetu inajali haki za binadamu, na za wakimbizi, Waziri anaweza kutuhakikishia kwamba wakimbizi wanaoomba kuja nchini Kenya watahudumiwa? Je, hiyo pasipoti inayotiliwa maanani na Umoja wa Mataifa, itaheshimiwa ipasavyo?

Mrs. Kilimo: Bw. Naibu Spikwa wa Muda, watatumikiwa vizuri kulingana na uchunguzi utakaofanywa. Lazima kila mtu ambaye anataka kuingia nchini achunguzwe, ili tulinde nchi yetu kutokana na wale wenye nia mbaya.

Capt. Nakitare: Mr. Temporary Deputy Speaker, Sir, I would like to raise an interesting issue. Is the Minister aware that the document issued under the United Nations Charter, protecting refugees, does not allow them to go to their countries of origin for fear of being arrested?

Mrs. Kilimo: Mr. Temporary Deputy Speaker, Sir, I am aware of that. I hope what Capt. Nakitare has said will help the hon. Member who asked the Question. He now knows why refugee documents must be checked.

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, I do not think the Minister answered this Question properly. Kenya is a signatory to the United Nations Charter. As a result of that, it is expected to respect human rights, as Mr. Mwandawiro has said. We want some clarification. We know that some Somalis with travel documents are denied visas to enter this country, while it is possible in Uganda. What makes that not to happen? Do you deal with individuals, communities or ethnic groups?

Mrs. Kilimo: Mr. Temporary Deputy Speaker, Sir, we deal with individuals. It is not true that all Somalis who apply for visas or passports are not given. We take an individual and look at his

or her case separately.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I am surprised by the way the Minister is answering the Question. We are asking about travel documents for refugees who stay in this country. We are not asking about Somalis who live in Kenya and are Kenyan citizens. That is a different thing. The issue of somebody leaving Kenya as a refugee, going to another country and coming back, does not arise. There are refugees in Kenya who have been given asylum in other countries. They have relatives in Kenya. They would like to come and visit their relatives in Kenya, but they are denied visas. What is the use of having a Refugees Bill in this country?

Mrs. Kilimo: Mr. Temporary Deputy Speaker, Sir, I hope the hon. Member heard my answer. The other hon. Member asked about travel documents. Those refugees were given asylum in other countries. I also wonder: If they have relatives in Kenya, why did they not stay here? They cannot have relatives in Kenya and go out as refugees!

*(Both Mrs. Kilimo and Dr. Ali
stood up in their places)*

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, both of you! Both of you cannot be on your feet! If somebody stands on a point of order, one should yield to the other. So, Dr. Ali, if you are standing on a point of order, she is supposed to yield!

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I am sorry about that. However, the Question I asked and which the Minister did not answer relates to Somali, Ethiopian and Sudanese refugees in this country. Kenya has done a very good job in solving the problems in the Sudan and Somalia. Hopefully, the citizens of these countries will go back to their respective home countries. Some of them were removed from the refugee camps in Kenya and taken to the USA, UK and other countries in Europe. They have relatives who are still staying in the refugee camps. It happens that sometimes those who were given asylum in the countries that I have just mentioned want to come back to visit **[Dr. Ali]**

their folks in the refugee camps, but their visas are not processed. How can the Minister assist these people so that they can visit their relatives in the refugee camps?

Mrs. Kilimo: Mr. Temporary Deputy Speaker, Sir, the hon. Member should have been satisfied with my first answer. I said that we deal with refugee cases individually. It is not all refugees who are denied visas to come back to the country. We look at individual applications of the refugees whenever they show interest to come back to Kenya. We also have a right as a country, to protect our country from people who want to gain entry without a good cause. In the first place, these refugees left our country and now they want to come back. I really wonder if the hon. Member has ever been to a refugee camp. No one would want to go back to that kind of life once they get asylum in another country.

Mr. Mwandawiro: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for me to put it that the Question has not been answered adequately because it seeks to know why the United Nations (UN) refugee documents are issued discriminately.

The Temporary Deputy Speaker (Mr. Poghismo): Well, I do not know where you are on that one. Is it a question you are asking or are you on a point of order?

Mrs. Kilimo: Mr. Temporary Deputy Speaker, Sir, Kenya is a sovereign State and we have the right to protect our country. A UN document is not a right for others to come to Kenya. We have to scrutinise that UN document before we allow any holder of it to enter our country.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): For the second time, the Question by Mr. Kamama!

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I stand to seek the Chair's indulgence to defer this Question because hon. Kamama has to attend to some urgent matter in his constituency. People from North Baringo attacked his own people and so he has visited the area.

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, I would like to ask Question No.582!

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! I have two different and conflicting stories and I do not know which one to follow. For that reason, I think I will defer the Question for the sake of Mr. Kamama so that he can ask it himself. However, I need to find out whether he really gave permission to Mr. Boit to ask the Question on his behalf. What do you say, Mr. Boit?

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, I have express permission from the Questioner. So, I need to ask the Question on his behalf.

The Temporary Deputy Speaker (Mr. Poghisio): Did you say "express permission"?

Mr. Boit: Yes, Mr. Temporary Deputy Speaker, Sir. I talked to him over the phone.

The Temporary Deputy Speaker (Mr. Poghisio): Where is he now?

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, he is in Baringo now.

The Temporary Deputy Speaker (Mr. Poghisio): But did you hear what Mr. Angwenyi said?

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, Mr. Angwenyi should substantiate his remarks. I am at peace with Mr. Kamama. In fact, we are very good neighbours back at home.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Boit! It makes it difficult for me to give you a chance to ask the Question given the information I got from Mr. Angwenyi who says that Baringo North people have attacked Mr. Kamama's constituency! So, I do not know how you can ask the Question on his behalf!

(Laughter)

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, Mr. Angwenyi is from Kisii and I am from Baringo. I am not aware of any war in Baringo. The Member for Baringo Central can confirm that. We are at peace and if there is war in Kisii, let not Mr. Angwenyi imagine that we are fighting in Baringo!

(Laughter)

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think everybody knows that the only people who have the capacity to fight Mr. Kamama's people are my own people!

(Laughter)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Mr. Ethuro, you should have stood on a point of information. Mr. Boit, you can now ask the Question on behalf of

Mr. Kamama!

Question No.582

OPENING OF CHESIRIMION DISPENSARY

Mr. Boit, on behalf of **Mr. Kamama**, asked the Minister for Health:-

(a) if she is aware that the proposed Chesirimion Dispensary in Baringo East is now complete with all facilities; and,

(b) when the Ministry will open this dispensary so that people can start getting treatment in this malaria and typhoid-prone area.

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

(a) I am aware that Chesirimion Dispensary in Baringo East is not complete. The District Health Management Board had toured the facility on 6th July, 2004 and made recommendations on several works to be done before the dispensary can be opened.

(b) The facility will be operationalised as soon as the community fulfils the conditions set out in the Inspection Report conducted by the District Health Management Board on 6th July, 2004.

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, I do not think the Assistant Minister is informed. We are on the ground and, in our opinion, the facility is complete. It is an important facility for us because it is a border facility for East Baringo and North Baringo. Could the Assistant Minister facilitate the official opening of this facility since we are satisfied as hon. Members and also as a community?

The Temporary Deputy Speaker (Mr. Poghisiyo): Mr. Boit, I know you have dealt with these things formally as a professional. However, with regard to inspecting the facility, really, between you two hon. Members and the Assistant Minister, there is someone who is definitely more qualified than you. The Assistant Minister can speak for himself. You say that as hon. Members you are satisfied that the facility is ready for use and the Assistant Minister said that he is not satisfied. So, let the Assistant Minister state his bit.

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I said that we will open it as soon as the stated conditions are fulfilled. There is only one pit latrine for use by the members of staff. One of the conditions was the construction of two pit latrines for use by the patients. We also asked for a T-Door to be made and shelves to be put up in the store. The wooden doors should be replaced because of attack from termites. We instructed that metal doors be used. Benches have not been provided in the dispensary. Where are patients supposed to sit when they come to the dispensary? There are cracks appearing on the doors and there are no gutters to hold rain water. These are some of the things that have not been done. Once they are done, we shall open the facility.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister undertake to do the repairs and give us a specific date when they shall have completed the repairs and have the facility opened to serve the people of Baringo East?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, could he, please, repeat his question? I did not hear it.

(Laughter)

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister, now that he has determined that the dispensary is incomplete, undertake to do the repair work and once it is complete re open the facility for use by the people of Baringo East? Could he also give us a definite

date by which the repairs will have been done?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, this is a community initiative. The onus is on them to complete the project so that we can take over. The Ministry has not been allocated funds for that particular purpose. Therefore, we want the community to complete it and then we will assist them.

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. This Assistant Minister is letting us down! The community has built a dispensary in Turkana. He is talking about lack of furniture, the doors and benches. Why should cracks on the doors of a dispensary stop people from accessing health care? The Ministry should get serious and open the facility!

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, the people in this area are not desperate in that sense. They are being served by Inginyal Health Centre which is only 15 kilometres from there. We want it to be done properly so that we can take over.

Mr. Boit: Mr. Temporary Deputy Speaker, Sir, the distance between one health facility to another one is supposed to be five kilometres. The distance between these two health facilities is 15 kilometres and yet this is an arid area. People are travelling very long distances. We have spent a lot of money putting up this facility. This facility serves East Baringo, North Baringo and Central Baringo. Could the Assistant Minister open this facility immediately? The onus is on us to replace these benches and repair cracks. We have completed the whole building. What are these benches the Assistant Minister is talking about?

Mr. Konchella: Mr. Temporary Deputy Speaker, Sir, I wish the hon. Member would do what we have asked because the Health Management Board has inspected the dispensary. If they finish the inspection, even tomorrow, we will open it. The dispensary is not fenced and, therefore, it is insecure for the staff to stay there. Let us have the facility fenced and toilets built because patients cannot go to a place where there are no toilets.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Angwenyi! I am leaving that section. I am going to Questions by Private Notice. Our time is far spent!

QUESTIONS BY PRIVATE NOTICE

DEATH OF MS. VICKY AKINYI AT MTWAPA POLICE STATION

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

(a) Could the Minister explain how Ms. Nancy Vicky Akinyi met her death while being held at Mtwapa Police Station in Bahari Constituency on June 27, 2004?

(b) Why have the police officers suspected to be responsible for her death not been arrested and charged?

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

(a) Ms. Nancy Vicky Akinyi is suspected to have died while being held at Mtwapa Police Station as a result of injuries she sustained during a scuffle between herself and a hotel bouncer a Mr. Eric Onyango, previous to her being taken to the police station.

(b) I am not aware of any police officers who were suspected to have been involved in the death of the late Nancy Vicky Akinyi.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, the information I have is that Ms.

Akinyi went to the police station to report theft of a mobile phone. Instead of being assisted she was arrested and that night she was battered to death. The postmortem results that were given by the Coast General Hospital did attest to the fact that this lady was killed at the police station. Could the Assistant Minister tell this House the truth about this matter because what he has said is totally unsatisfactory?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I appreciate the concerns of the hon. Member. The information we have is that Nancy Vicky Akinyi was arrested on the morning of 26th June, 2004, at 8.40 a.m. She was being held on suspicion of the offence of malicious damage to property. The offence was supposed to have been committed at Palm Bar and it was reported by the bouncer; Mr. Eric Onyango. At about 12.45 p.m. the Officer Commanding Police Station came to the station and found her situation deteriorating. He arranged for her to be taken to the Coast General Hospital. Upon arrival she died. The information is that she suffered injuries. I agree with the hon. Member that she sustained some injuries. Investigations showed that she was actually beaten before she came to the police station, by the same bar bouncer, Mr. Eric Onyango, due to an unsettled bill of beer. We had Mr. Eric Onyango arrested and we charged him with the offence of murder, contrary to Section 303 of the Penal Code in Criminal Case No.312/214/084. The matter is pending before the Malindi High Court and the next hearing date is on 8th December, 2004.

Mr. Khamisi: Mr. Temporary Deputy Speaker, Sir, if this lady arrived at the police station with serious injuries, why was she not transferred immediately to the hospital? Why was she kept at the police station overnight?

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, the information we have is that when she was brought to the station at 8.40 a.m. she was looking drunk. The OCS came at 12.45 p.m. and formed the opinion that there was something wrong with that lady. At that point she was taken to the Coast General Hospital.

MEASURES TO CURB INSECURITY
IN SUBUKIA CONSTITUENCY

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

(a) Is the Minister aware that armed thugs have virtually taken control of Subukia Constituency especially at night?

(b) Is he further aware that thugs killed Mr. James Munene on 11th September, 2004, and returned to the homestead of the deceased on 7th October, 2004, as they had promised?

(c) How many people have been killed in the constituency by criminals since January, 2003?

(d) What emergency measures has the Minister taken to arrest the situation in (a) above, which has attained crisis levels?

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

(a) I am not aware that armed thugs have virtually taken over control of Subukia Constituency; whether at night or during the day.

(b) I am aware that thugs killed the late Munene during the night of 11th September, 2004. I am further aware that the thugs visited the home of the deceased on 7th October, 2004 and warned the wife of the deceased to withdraw the case against their colleagues.

(c) I am aware that four people have been killed in Subukia Constituency since January 2003.

(d) The following measures have been put in place to reinforce security in the area.

1. There are four operational police stations there.
2. Deployment of a police patrol dog to Subukia Constituency.
3. There are Administration Police camps across the constituency.
4. There are frequent intensive patrols within Bahati and Subukia Townships.

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, the people of Subukia voted for NARC because they wanted better security. Now they do not.

Hon. Members: *Pole!*

Mr. Wamwere: The people of Subukia voted for NARC because they wanted better answers in this House. Again they do not! I think it is unfair for the Assistant Minister to come and read to this House any answer he gets from his civil servants without verifying the truth of what is contained in those answers. If the measures that the Assistant Minister has enumerated have indeed been put in place, could he then explain how come more than ten people have been killed within the last one-and-a-half years? Could he tell the House how many thugs have been arrested and convicted for perpetrating the more than ten murders? Could he tell the House why it has been possible---

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Wamwere, how many questions are you asking?

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, I am just about to conclude my questions!

The Temporary Deputy Speaker (Mr. Poghisio): Order! You cannot ask more than one question!

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, I was just trying to show why there is no Government in Subukia Constituency!

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Order! This is Question Time! Ask your question and you will get an answer!

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, if the Government has taken measures to provide security to the people of Subukia Constituency, how come thugs are operating from 6.00 p.m. to 6.00 a.m. without being arrested?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Wamwere! I think you have made your point! You can only do that by asking one question. Too many questions will not help you because the Assistant Minister cannot answer all of them!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, we appreciate the concerns raised by the hon. Member, but we have taken serious action against several people who have been arrested. I can give the whole story here on the incident of Tuesday, 4th, which I referred to. Mr. Peter Kiburi Kinyoro was arrested after he robbed people in Gitwamba Farm. The case is still under investigation. In Bahati Criminal Case No.769 of 2004, during the night of 12th June, 2004 Anne Wambui Gitonga was attacked and killed. The police investigated the matter and arrested four people namely Joshua Wilson Otieno, Monicah Nyambura Otieno, John Kibaki Kamau and Joseph Kariuki Ndung'u. The four suspects were charged with murder, and the case will be heard on 13th December, 2004. In the Subukia Criminal Case No.766104 of 2004, during the night of 10th September, 2004, Mr. James Munene Mwangi was attacked by unknown number of thugs, who were armed with an AK47 rifle. They shot him dead, but two suspects have been arrested. They are Paul Ngei Nderitu and Paul Kamau Nderitu. These suspects have been charged with murder at

the Nakuru High Court, and the case will be heard on 7th December, 2004. I could go on, but I am saying that the Government is doing what it can to curb crime. The Government cannot stop people from committing crime, but it can only try to stop them. The Government cannot completely eradicate crime. So, we are doing what we can to eradicate crime in Subukia. As a result of the reports the hon. Member has given us, we have intensified patrols in that constituency.

The Temporary Deputy Speaker (Mr. Poghisio): Well, let us have the last question, Mr. Wamwere!

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, if truly the Government is committed to providing security for the people of Subukia Constituency, could the Assistant Minister then promise this House that his Ministry is ready to supply a police dog to Bahati Police Station? Could he confirm that he is going to transfer police officers and chiefs who are suspects and whose names we have given to the Government? Could he also tell us whether he is prepared to supply a vehicle to the area District Officer (DO) and police station at Subukia Town so that they can conduct patrols?

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear the hon. Member for Subukia asking for police officers, who are suspected to be colluding with thieves in his constituency, to be transferred? To which constituency should they be transferred? Is he in order to say that?

(Laughter)

(Mr. Wamwere stood up in his place)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Wamwere, do not just rise in your place and go to the microphone!

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, I want to assure the hon. Member for Subukia that we shall work with him to improve security in that area. I also concur with Mr. Muite that we should discipline any officer who is suspected to be involved in any thuggery and not transfer him or her to another station.

The Temporary Deputy Speaker (Mr. Poghisio): Next Question by Mr. Kamotho!

DUPLICATION OF ROLES BY
ANTI-CORRUPTION INSTITUTIONS

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, although I have not received a copy of the written answer, I beg to ask the Minister for Justice and Constitutional Affairs the following Question by Private Notice.

(a) Is the Minister aware that the duplication of roles and functions by the anti-corruption institutions, namely, Kenya Anti-Corruption Commission, Department of Governance and Ethics and the National Anti-Corruption Committee are impeding the fight against the vice?

(b) Could the Minister inform the House the rationale of maintaining several institutions to fight corruption?

(c) How many people have been successfully prosecuted for committing economic crimes since the above institutions were set up?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, it is true that the hon. Member has not received a copy of the written answer. I have been looking for him to give him a copy of the written answer. He has just come in.

However, I beg to reply.

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

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! You do not even need to rise on a point of order!

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, I was here even before the Speaker entered the Chamber. Normally, Ministers and Assistant Ministers do not give copies of written answers to hon. Members. They give them to the officers of the House, who in turn hand them over to hon. Members of Parliament.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Kamotho, you are now doing my job! It is okay!

Proceed, Mr. Assistant Minister!

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, he has not received a copy of the written answer because I was looking for him on this side of the House.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Githae! I do not want to pursue this matter! You do not look for the hon. Member!

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I apologise to the House.

I beg to reply.

(a) I am not aware.

(b) The Kenya Anti-Corruption Commission was established under the Anti-Corruption and Economic Crimes Act No.3 of 2003. The functions of the Commission are to investigate any matters or conduct constituting corruption or economic crimes, and to assist any law enforcement agency of Kenya in the investigation of corruption for economic crimes. The Department of Governance and Ethics was established by the President in January, 2003, to offer him advice on anti-corruption policies and strategies, which are then implemented by the various Government institutions. The National Anti-Corruption Campaign was launched by the President in July, 2003. Its main role is to mobilise Kenyans, in all sectors, to rise up against corruption.

(c) Up to this day, 191 suspects have been taken to court. There have been seven convictions, four acquittals, 29 cases were discharged by the courts, 11 suspects were discharged after the Attorney-General entered *nolle prosequi*, three suspects obtained prohibition orders and 50 cases are in progress. The Attorney-General is perusing a number of files from the Kenya Anti-Corruption Commission and the police with a view to prosecuting more of the suspects involved.

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, I am surprised that the Assistant Minister has said that he is not aware that there are too many institutions and organisations established by the Government to fight corruption. These institutions are yet to show us any results. Is he aware that there are more than ten institutions, including the parliamentary watchdog Committees, which are involved in the fight against corruption, but no tangible results have been seen since this exercise started?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, I am saying that I am not aware that there is duplication of roles. There is absolutely no duplication of roles. All the various bodies that the hon. Member has mentioned perform separate and distinct roles. In fact, they are even more than ten. Corruption must be tackled from all angles and sectors. This vice must be eliminated. The only way to eliminate it is to fight it wherever it is detected. Corruption must be fought from all

angles. In fact, the more bodies we have fighting corruption, the better.

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, the substantive Minister has been on record saying that corruption cannot be fought by shouting from the rooftops. We think that the creation of all these new institutions basically proves that point; that they are shouting from the rooftops. Can the Assistant Minister tell us, out of the seven convictions that he has mentioned, how many of those specifically concern mega-corruption and not about traffic policemen who have been arrested receiving small bribes? Can he actually table the names of the seven people who have been convicted and what they actually relate to?

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, I am surprised to hear that not much has been achieved. I have just informed the hon. Member that the fact that we have had seven convictions shows that the anti-corruption measures that the Government is putting in place are working. I have also mentioned that 29 cases or suspects were discharged by the courts but, so far, there have only been four acquittals. Two of the major convictions were mega-scams or what you would call major crimes, and that is in the public domain. But there are no major corruption or small corruption cases because corruption is corruption and it must be eliminated wherever it is found.

Mr. Temporary Deputy Speaker, Sir, regarding the number of institutions that are fighting corruption, as I said earlier, the more they are the better. In fact, they are more than ten as the hon. Member has mentioned. We must fight and eliminate corruption from this country as it had started becoming a way of life. Now, Transparency International (TI) has even confirmed that corruption is actually going down in this country. We will fight corruption wherever we see it, irrespective of one's station in life. We are not going to respect that, whether you are small or big; if there is evidence you will be prosecuted.

Mr. Billow: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that TI have published a report that corruption is going down in the country? No! The TI published the perceptions of foreign investors regarding corruption in the country! At no time did they give a report that corruption is going down in the country. Can the Assistant Minister answer my question? Name the seven mega-corruption cases that you say have been concluded and persons convicted?

Mr. Githae: As I said earlier, there are two major cases. I do not have the actual court cases which I can give you, but I will bring them later. But what I am saying is that where there is smoke, there is fire. The fact that perceptions among the international community and among Kenyans showing that---

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Githae! I think you are bringing the same point. You can either name them or not name them!

Mr. Githae: I have said that I will bring the information later, because they are just names. But what I am saying that it is really important that whether corruption is small or big, it must be eliminated.

The Temporary Deputy Speaker (Mr. Poghiso): Order, Mr. Githae! All questions are important and so, do not go that way!

Hon. Members, I am going to ask the indulgence of the next last two Questioners that we have to defer their Questions. hon. Dr. Khalwale and hon. M. Maitha, your Questions will be on tomorrow afternoon.

Last Question, Mr. Kamotho!

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has said that there could be more than ten institutions fighting corruption. These ten institutions are not voluntary bodies, they are eating into the public coffers! Can the Assistant Minister tell this House how effective these institutions are? Can he also confirm whether these

institutions are not causing confusion amidst fighting corruption?

Mr. Githae: On a point of order, Mr. Deputy Speaker, Sir, we must fight corruption whenever its head emerges, and some of these committees that fight corruption have, in fact, been mandated by an Act of Parliament. In fact, if I can just mention them, because there is a feeling that it is only the Kenya Anti-Corruption Commission which is fighting corruption, all the organs that are fighting corruption are as follows: The Ministry of Justice and Constitutional Affairs, the Cabinet Committee on Anti-Corruption, the Anti-Corruption Commission, the Public Accounts Committee, the Efficiency Monitoring Unit, the Kenya National Commission on Human Rights, the Controller and Auditor-General, the public prosecutors, the Judiciary Committee on Anti-Corruption, the Goldenberg Commission of Inquiry, the Commission on the Illegal and Irregular Allocation of Public Land, the Cabinet Committee on Pending Bills, the Asset Tracing and Recovery--- They are many and very effective!

Mr. Billow: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is taking this House for a ride! The Questioner did not ask for a list of the institutions. Is he in order to give us a list of the institutions when, in fact, he was asked how effective the organs are? He was also asked whether they were not only duplicating but also, in fact, impeding each other because of their number? That was the question!

Mr. Githae: These institutions have been very, very---

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, now! The time for Questions is over! I am really sorry, hon. Members---

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

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Kamotho! It is not necessary that you ask another question, because we have already finished!

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, I want the Question to be deferred because the Assistant Minister does not appear to be well-informed of what---

The Temporary Deputy Speaker (Mr. Poghismo): Order, Mr. Kamotho! We do not defer the Question just because--- Really, after dealing with the Question for that long, you should not, at the end, just ask for it to be deferred. Why do you not ask your last question? You cannot ask me to defer your Question since it has already been answered!

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

The Temporary Deputy Speaker (Mr. Poghismo): Ask your last question, Mr. Kamotho!

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, the answer given for this Question by the Assistant Minister is not satisfactory to me. Therefore, I would like to request the Chair to defer this Question so that the Assistant Minister can bring a more satisfactory answer.

(Applause)

Mr. Githae: Mr. Temporary Deputy Speaker, Sir, there is no need to defer this Question because there is no Supplementary question that has not been answered. We do not defer Questions just for the sake of it. Which aspect or area of your Question has not been answered? This Question has been adequately answered!

The Temporary Deputy Speaker (Mr. Poghismo): Let me just put this matter to rest. Hon. Kamotho, I wish your request had come earlier, but you knew, already after all those answers, that if you are not satisfied with the answers given, we do not just defer it for that reason. You have Standing Order No.18 to help you. You can come with a Motion of Adjournment or you can actually go to the Assistant Minister himself and deal with those issues. Let us not go back to deferring Questions as we have a backlog of Questions. Your Question has been answered and so,

you can sort out that matter. Look at Standing Order No.18 and see whether it can assist you.

The time for Questions is over. In fact, we have used twice our time for Questions. So, I have every reason to say let us stop there. You can use the recourse which has been provided.

IMPLEMENTATION OF NSHIF PILOT SCHEME

(Dr. Khalwale) to ask the Minister for Health:-

(a) How many hospitals have commenced the pilot National Social Health Insurance Fund programme in anticipation of the conversion of the National Hospital Insurance Fund to a social insurance scheme?

(b) What improvements have been carried out in those hospitals to make the pilot project a success?

(Question deferred)

REPAIR OF ATHI RIVER BRIDGE

(Mr. M. Maitha) to ask the Minister for Roads and Public Works:-

(a) Is the Minister aware that the bridge along Nairobi-Kangundo road across Athi River is about to collapse?

(b) What steps is the Minister taking to have the bridge repaired?

(Question deferred)

Next Order!

COMMUNICATION FROM THE CHAIR

MEMBERS TO SEEK MINISTERIAL STATEMENTS ANOTHER TIME

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, those of you who had requested to rise on points of order to seek Ministerial Statements, I would like to seek your indulgence to defer them, since our time cannot allow us. I think you can try it another time. As you can see, we have other business to do, and time is not on our side. I am sorry again, for those who had intended to seek Ministerial Statements. For now, we have to go straight to the next Order.

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

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Kamotho, we are already in the next Order.

MOTIONS

PROVISION OF TELECOMMUNICATION FACILITIES IN MARGINALISED AREAS

THAT, in view of the fact that Telkom Kenya has failed to provide services in

remote areas of this country claiming that it is very expensive to provide such services, recognising that marginalised areas require these facilities; this House urges the Government to authorise individuals and/or private organisations to provide telephone and radio call facilities in all marginalised areas.

(Dr. Ali on 13.10.2004)

*(Resumption of Debate
interrupted on 13.10.2004)*

The Temporary Deputy Speaker (Mr. Poghisio): Who was on the Floor? Dr. Mwiria!

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir. Last time, I had started by saying that I support this Motion for a number of reasons.

First of all, the liberalisation of telecommunication facilities and making them available in remote areas will contribute to the liberalisation of ideas; a freedom that we were denied under the previous regime. I am so glad that Dr. Ali, who himself supported a regime that was not supporting the independence of the media, has come up with this Motion, that he could not bring to the House in the last Government.

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

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

Secondly, I made the point that monopolisation is about corruption. It is, therefore, important to ensure that we do not let a few individuals or organisations or even the Government to be the only one providing specific services because that can only strengthen corruption.

Thirdly, I would like to say that liberalisation will lead to democracy. We were told by one honourable Member from North Eastern Province that one of the reasons they voted for KANU in the last elections is because the Kenya Broadcasting Corporation (KBC) announced that KANU was leading. So, all people in that area decided to vote for KANU. It is so unfortunate that people wait until they hear such announcements before they make up their minds which side to vote for. But it is an indication again of the extent to which misguided or monopolised broadcasting systems can lead to lack of democracy and misinformation of the public.

It is also important to see the role of the media in terms of promoting development generally. Information technology is now seen as a major supporter of development generally, and as a way of reducing inequalities between areas that have been historically disadvantaged and those that are better endowed, between urban centres and rural communities and, particularly, with regard to areas that lack basic infrastructure, including North Eastern Kenya and other places.

Mr. Temporary Deputy Speaker, Sir, universal access to information technology is as important as universal access to education. When we talk about universal free primary education, we should realise even the greater importance of information technology and, therefore, its access to the majority of Kenyans. But it is not going to be possible if you base it on telephony; on just fixed lines. It is important to depend, as much as possible, on other possible media, including broadcasting, internet and postal services, and much more importantly, on wireless technology.

As of now, with the mobile telephones, 65 per cent of Kenyans have access to some kind of telephone service, compared to only 25 per cent before we liberalised telephone communications. The future of Africa, especially the remote parts of this continent, is going to be greatly dependent on the use and expansion of wireless technology.

This is also a way of empowering local communities, in terms of giving them access to knowledge that can promote development, helping them have access to specific important social services, including health facilities, because there is a lot that you can do over long distance. This will also boost entrepreneurship and job creation. The more players we have in this industry, and especially players contributing to alleviating the inequities in disadvantaged communities, the more possibilities we have for creating employment.

In the area of education, those of us in the education sector realise the great potential this kind of initiative would have in terms of promoting access to quality education. Distance education is one clear evidence of how you can use telecommunications to promote education for communities that may not be able to use facilities that are available in places like Nairobi and other urban centres. It is also possible, with these kind of facilities, to share information much more easily. If you have schools that are in North Eastern Kenya that are interlinked around a certain resource centre, it is possible to use that facility to beam information to other schools. This may be information not just on syllabuses or instructions, but also on examinations. It is possible to use a good teacher to resolve, for example, a difficult mathematical equation, or a good Kiswahili or English teacher to be shared by other schools that are in the neighbourhood, if you have this kind of facility. Schools can also use this facility for data management; collecting data on students, teachers, surrounding communities, and how this kind of information impacts on educational development in the specific schools and communities, and use that data to interpret that reality and to come up with solutions to some of the problems that those in the process of delivering education are encountering.

Another important factor is the use of these facilities to disseminate specific messages, including reading materials that might not be easily available. In this connection, I would like to say that it is also possible to have libraries on these kind of links, where communities and schools could come around, including tele-media centres which could be the basis for providing a great deal of information on development.

There is also the need to see how these kinds of facilities could promote rural radio stations. Again, I am glad we have gone through the era of monopolisation and we have now liberalised the media. But local rural radio stations have a lot of potential for development. I do not think we have paid enough attention to that. So, community radio stations could again be strongly supported through these kinds of initiatives. I hope that we have more of those, especially in those areas where KBC and other FM stations that are now a monopoly or those who are lucky to be in urban centres, are utilising.

I, therefore, hope that the whole idea of wireless technology is going to be strongly supported. Many countries, even where the landline technology is very well advanced, are now going back to wireless technology. I think we should not feel constrained by the fact that we already have this system developed in most parts of the country. For the areas that are disadvantaged, their salvation in terms of communication and using the benefits of communication, is through the support of wireless technology.

I hope that as we debate this Motion, and since I think it will go through, and as we talk much more about wireless technology, it is important for us to give incentives to those that are in this industry to expand the technology even faster.

With those few remarks, I beg to support.

Mr. Keter: Mr. Temporary Deputy Speaker, Sir, I beg to move that the Motion be amended

as follows:-

(a) By deleting the word "remote" appearing in the second line; the word "marginalised" appearing in the third and fifth lines, and the words "telephone and radio call facilities" in the fifth line.

(b) By inserting the word "rural" in the second, third and fifth lines, and the words "telecommunications services" in the fifth line, in place thereof.

The Motion, therefore, will read:-

THAT, in view of the fact that Telkom Kenya has failed to provide services in rural areas of this country claiming that it is very expensive to provide such services, recognising that rural areas require these facilities; this House urges the Government to authorise individuals and/or private organisations to provide telecommunications services in all rural areas.

Mr. Temporary Deputy Speaker, Sir, I am moving this amendment because while we limit ourselves to providing telephones and radio calls, those are only in a few areas. We know that telecommunication services involve provision of Voice Over Internet (VOI), data communication and fixed and mobile telephones. So, telecommunication services are required throughout the country. Unfortunately, these services are even lacking in urban centres. I read a story in today's newspaper where the Speaker was saying that Parliament will soon set up a website. It is unfortunate that, for quite sometime, we have lacked these facilities. If we cannot provide good infrastructure in terms of telecommunication network then, we cannot provide a website. The Speaker said that this website will be accessed by our constituents or hon. Members of Parliament in their constituencies. If, for example, there is no good telecommunication network in my constituency, how will I be able to access a website? So, those are some of the things which we need to look into.

Mr. Temporary Deputy Speaker, Sir, making calls in this country is very expensive. I would like the Minister to consider setting up a Universal Services Obligation Fund (USOF), so that individuals and small organisations are licensed to provide telecommunication services. The USOF is there in most countries. This kind of fund will assist companies to set up businesses in small centres. Otherwise, for a business person, they will set up their telecommunication services in urban centres forgetting our rural areas.

I would also like to urge the Minister to consider waiving duty on equipment used to set up exchange centres. At the moment, this is quite expensive. For example, there is an exchange centre in Garissa District which is interlinked by radio communication. It is not possible to link this centre to other remote areas because there is no electricity and no proper road network. So, to provide effective telecommunication facilities in those areas, I would like to urge the Minister to consider introducing Very Small Aperture Terminals (VSAT). These terminals are very cheap. For example, you can have a VSAT in Nairobi and another one in Garissa District. Thereafter, to interconnect the subscribers in that remote area, you will have to use the local wireless loop, which is also very cheap. So, I would like to request the Minister to consider introducing VSAT. The licensing fee for VSAT by the regulator, the Communications Commission of Kenya (CCK) in this case, should be affordable; the fees should not be exorbitant. If the licensing fee is expensive, then we will only limit these services to big organisations like Safaricom, Kencell and Telkom Kenya Limited.

I would also like to inform the Minister that, for effective local wireless loop, we must reduce taxes on solar equipment. In our remote areas, where there is no electricity, we cannot talk of provision of wireless if we cannot reduce tax on solar equipment. Solar energy and batteries are highly used in other countries.

Mr. Temporary Deputy Speaker, Sir, in terms of the inter-connectivity charges, Telkom

Kenya Limited provides the inter-connectivity between the mobile service providers, Safaricom and Kencell. However, the charges are expensive to an extent that Safaricom and Kencell are not even able to provide telecommunication services in remote areas. Safaricom and Kencell will not be able to get to the remote areas where Telkom Kenya Limited has not provided the radio links. So, in this case, liberalising this sector is very important because we will have other companies coming in to provide these radio links which can provide inter-connectivity charges to other service providers.

I know, for example, that cyber cafes are only available in urban centres. When it comes to the rural areas, it is very hard to check and send e-mail. All this is as a result of a poor telecommunication network. So, issuing licenses to small companies is more important. I know that the exclusivity of Telkom Kenya Limited came to an end in June last year. We have not seen anything happening. I would like to ask the Ministry, through the regulator, the CCK, to do something so that we have other small companies providing telecommunication services; the international gateways. So far, we only have the monopoly of JamboNet. The existence of a monopoly creates a situation where even Parliament cannot have a website or enjoy internet services. It is unfortunate that internet services are only available in the library. This is unfortunate because those of us who are supposed to be leading in this area, are very much behind, yet we have some small organisations in this country enjoying these services. So, I would like to urge the Minister to consider privatizing the gateways so that we have more players in this sector. Once we provide these gateways, it will open up other remote centres of this country. We know that, with a proper telecommunication network, the course of development is paramount.

Mr. Temporary Deputy Speaker, Sir, my final request concerns the radio links. We know there are two ways of providing telecommunication service; you either provide it through the radio links or the optic fibre, like the connection between our gateway from Longonot to our earth station, which is very effective in terms of communication. However, the cost of this kind of link is quite high. It is only through the CCK, who can lower the cost of frequencies so that small individuals, for example, in Garissa District or Belgut Constituency could provide these links.

We also have the analog digital link which is quite cheap. It is about Kshs12,000 a month. Instead of hiring a lease line of about Kshs128,000 from Telkom Kenya Limited, which comes to about Kshs100,000 a month alone, why can we not provide an analog link in our rural areas, so that people in the rural areas are able to access internet facilities? If we do not do that, how many people, for example, in my constituency will pay Kshs100,000 for a lease line? It is affordable to provide the analog link at Kshs12,000 to people in the rural areas so that they can access information as much as possible.

Mr. Temporary Deputy Speaker, Sir, my last comment concerns data communication which is an area that most people have not talked about. We need this kind of communication. It can only be effective if we can provide VSAT. We need data communication so that information can be transferred to our urban and rural centres.

Since my time is running out, my final request to the Minister concerns the agreement which was signed between Safaricom and Kencell because the inter-connectivity charges are quite high.

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

(Mr. M. Kariuki stood up in his place)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. M. Kariuki. We are now running out of time. We, therefore, need to move a bit faster. Second the proposed amendment briefly, and then I will propose the Question.

The Assistant Minister for Foreign Affairs (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I wish to second the proposed amendment. In doing so, I wish to emphasise the

importance of telecommunications in terms of our development. I think there are two key challenges in terms of our development. One of them is physical infrastructure. However, more important is telecommunication. This is an aspect of production. In order to bring costs down, it is important that we liberalise the

telecommunications sector. Today, it is more than technology that has come into play. Telkom Kenya Limited is now facing a bigger challenge in terms of adjusting its equipment in order to meet modern challenges of communication.

The proposed amendment recognises first, that there are parts of this country that are disadvantaged in terms of remoteness from facilities that they require. Secondly, rural areas of this country have serious problems in terms of communications. Today, we have an anti-monopoly legislation. I think that Telkom Kenya Limited has to accept challenges from other telephone service providers. There are persons who are well equipped with modern technology in terms of telephony. The old time telephone lines are no longer in use in most countries. We must open our doors to globalisation approaches in order to have more service providers coming in.

Today, we talk of e-commerce and e-governance. Governments are providing information about what they are doing to their people. We cannot do this unless we have modern technology equipment to facilitate e-governance and e-commerce in our markets. We need to access information that is essential for our development. Any investor coming to Kenya will ask themselves how much they are likely to incur in terms of production costs and how much profit they are likely to reap. In assessing profits, they look at the cost of telecommunications and infrastructure. The cost of telecommunications would be low if we allowed in more players into the market.

Since more players came into the mobile phone industry, the services have become cheaper. I recall that about 10 years ago, when we had the 071, it cost about Kshs350,000 to get a mobile phone. Now, it is much cheaper. For less than Kshs10,000, one has a line and a telephone. It is important that we take this direction and open the market for more players.

But I have two major concerns. Perhaps, technology is running too fast ahead of us. Today, we have the internet and fax machines. However, we do not have any legal framework whatsoever. No Motion has been moved in this House to deal with matters of internet. We know that crime can be committed through use or misuse of internet, yet we do not have a legal framework to cater for this. I think it is important that the Attorney-General puts a legislation in place to ensure that our access to internet is regulated through a legal framework.

Mr. Temporary Deputy Speaker, Sir, the gap between the rich and the poor in this country is a matter of concern. I am happy that a section of the Press has highlighted this fact. I was reading the statistics, and this is important for Dr. Ali to hear. In North Eastern Province, only 5 per cent of the population have access to lavatories. Only 0.6 per cent have access to piped water in their houses. This is in comparison to other parts of the country. The gap between the rich and the poor is such that one feels guilty of being a leader in this country. Some people in some parts of this country cannot afford a lavatory; the pit latrines that we talk about. Ninety-five per cent of the population have to visit bushes. I do not know if we still have enough bushes in all parts of this country so as to assume that people relieve themselves in them. However, I think it is quite immoral. I think we need to bridge this gap that is in the telecommunication sector. I think the amendments tend to take care of this, that we are taking into account the remote and disadvantaged parts of this country. I come from an urban constituency, and in half of my constituency in Nakuru Town does not have any telephone services, water and electricity, and yet we are in an urban area. So, we should not really confine ourselves to the question of rural areas because even some urban areas do not have these essential facilities. That is why I welcome the amendment to refer to remote and rural areas as a component of our focus in development.

Mr. Temporary Deputy Speaker, Sir, in seconding this particular Motion, let me also reflect back to the past, that one of our major setbacks is that the Government has in the past used the myth of national security to create monopoly on telecommunication, and I think this is public knowledge. One of the reasons the Government of the day did not embrace telecommunications and the mobile phones was that they were going to compromise our national security, and as such, these gadgets were left in the monopoly of the police and other security forces. I think we now know that is a myth and, in fact, the more information we have, even about security, helps in the overall to improve our national security. So, I think we have moved from there and I think that in terms of technology, if we liberalise, we are likely to gain more as a country because we are going to have those service providers coming here to train our people and impart on our country the new technology that we actually need to face the challenges of reviving our economy.

Mr. Temporary Deputy Speaker, Sir, as far as education is concerned, today, there is a lot of emphasis on children learning computers, and school broadcasts to educate children, but one wonders in a part of this country where there is no radio communication, how do you access those children? How do you treat those children equally with those that are living in the urban areas? So, this element of liberalisation is critical in terms of empowering our children and in terms of ensuring that we provide services equally across the country.

Mr. Temporary Deputy Speaker, Sir, the other problem has been that the licence fee has been prohibitive. To ask for a service provider to pay Kshs15 million to have a licence, that is surely prohibitive. I think that if we are going to accommodate more and more service providers, let us make the licence fees within reach so that we can have as many players as possible, and so that the cost of providing services can come down. I do hope that the Minister and the CCK will consider bringing down the licence fee from the Kshs15 million that it is today, to a much more reasonable figure of perhaps about Kshs5 million, because, in that way, we shall be opening the doors for more players to come.

Mr. Temporary Deputy Speaker, Sir, I wish to say that since we liberalised the media in terms of FM stations, I think Kenyans are much happier, and that it is no longer possible to take Kenyans for a ride. There are many media FM stations that have really democratised our country in terms of access to information. There are very free debates going on, both in the vernacular media, Swahili and English, and I think that Kenyans now feel proud and more confident that they can access information, and that the Government has become more transparent because there are now more media players than there were before.

Mr. Temporary Deputy Speaker, Sir, on that note, I wish to second this particular proposed amendment.

Thank you.

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

QUORUM

Mr. Kombe: On a point of order, Mr. Temporary Deputy Speaker, Sir, I believe that we are dealing with a very important Motion. Unfortunately, we do not have quorum.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Kombe is right! There is no quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Members. We now have a quorum.

Proceed, Mr. Rotino!

Mr. Rotino: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion.

The Motion, as amended, talks about the rural communities. As we all know, the world has become a global village. We have to network so that information can reach everybody. Apart from infrastructure, one of the important factors for development is communication. After 40 years of Independence, there are no telecommunication services in my constituency. That area is not covered by any mobile telephone provider. The only telephone services in that area are provided by Telkom Kenya, but the corporation has refused to upgrade its network. So, I cannot speak to my constituents from Nairobi. How do we expect to realise development without telephone services? How will people know what is going on in the world if there is no effective way of communicating?

In 1986, a missionary who was based in West Pokot District was deported from this country because he had a radio call in his house. He was doing a very good job, but he was deported because he would communicate with people outside this country through his radio call. It was said that he was a security risk. The place where the missionary was staying had a lot of insecurity problems. He needed communication system, so that he could talk to the rest of the world. The missionary was deported without any justification. The Government gave him a 24-hour deportation order. That is what we call monopoly by the Government. If we do not put things in order in this sector, we will put the country into trouble.

Mr. Temporary Deputy Speaker, Sir, some of us come from insecurity-prone areas. We are not able to communicate with our people. We cannot get into those areas due to lack of means of communication. If we cannot provide a communication network for the people we serve, what are we saying? The roads in that area are not good. There are no infrastructural facilities. Telecommunication service is our right. We need to communicate. The Government should be able to provide that facility.

Mr. Temporary Deputy Speaker, Sir, the Motion seeks to provide for the licensing of individuals and organisations, or groups of individuals, interested in providing telecommunication services to do so. Such individuals or organisations will provide that facility, which is much needed, and contribute to the Government's revenue base. Fifty per cent of this country is not covered by any telecommunication network.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Rotino! Time is not on our side. It is time for the Government Responder.

Mr. Rotino: Mr. Temporary Deputy Speaker, Sir, because of time, I have not said anything much.

With those few remarks, I beg to support the amendment as moved. The Government should provide communication facilities in West Pokot.

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

*((Question of the second part of
the amendment, that the words*

*to be inserted in place thereof
be inserted, proposed)*

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

*(Question of the Motion as
amended proposed)*

The Temporary Deputy Speaker (Mr. Ethuro): Could we have the Government Responder?

The Assistant Minister for Transport (Mr. Were): Mr. Temporary Deputy Speaker, Sir, before I respond, I would like to donate three minutes to Mr. Wetangula.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Speaker, Sir, I want to support the amended Motion. It is a very important Motion and the amendment makes it even richer. Information is power, and for it to be translated into power, it must be disseminated. The dissemination can only be through some medium that we are trying to create here.

Mr. Temporary Deputy Speaker, Sir, we all know how difficult it is to communicate to many parts of this country. We also know that using wire telephones is not only out of date, but it has also become impossible because of vandals and criminal who cut the wires. It is time the Government moved into the space age and started using wireless communication, so that we can be able to communicate all over the country. You all know how easy communication can change the course of events. We know a country in West Africa where the simple use of FM stations and mobile phones helped bring down a Government that the people did not want. There was communication about the candidate that the people wanted, and it was done.

Mr. Temporary Deputy Speaker, Sir, once this Motion is passed, it should not be left to lie on the shelves like many others. An immediate move should be done to actualise it and turn it into law, so that we could effect what we want to do. In many parts of the world, even teaching in universities and schools is done through satellite communication. Students do not have to sit in classrooms to take their lectures and learn. It is by way of improving communications through satellite and other tools that our country can improve. That is another milestone in our development. We want to catch up with the rest of the world in communications.

I fully support the Motion. I thank Mr. Keter for moving the amendment that has enriched the Motion. I also thank the Mover of the Motion.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Were, you have six minutes.

The Assistant Minister for Transport (Mr. Were): Mr. Temporary Deputy Speaker, Sir, I would like to confirm that the Government supports the Motion as amended. The Government recognises the need to provide telecommunications services in all parts of this country. We understand that the tele-density in this country is quite low. As we speak now, it is about 0.16 to 100 in the rural areas, while in the urban areas, it is 4 to 100. The national average is about 0.16 to 100. When we compare that to the developed countries, the tele-density is about 60 to 100. It is the wish of the Government that all parts of this country are served properly.

It is in that respect that on 30th June, 2004, the exclusivity granted to Telkom Kenya was ended. Subsequently the Communications Commission of Kenya (CCK) has revised the

communications licensing strategy and market structure in order to open the communications industry to full competition. As I speak now, any individual or private organisations are at liberty to apply for licences to operate telecommunications services in any part of this country.

Investors and industry players have received the new market structure positively, as reflected by increased business inquiries and licences. As I speak now, the Government is in the process of developing a more comprehensive universal access strategy to communication services. Research is being carried out, in conjunction with the International Development Research Centre, on how to improve telecommunications services. That is related more to the rural areas where we know telecommunication services do not reach.

In addition, the Government, through the CCK, has licensed one regional telecommunications operator called Bell Western to provide telecommunications services in North Eastern Province. The company is currently in the process of rolling out its network in readiness to commencing operations in the near future.

Mr. Temporary Deputy Speaker, Sir, the CCK has also further licensed six local operators to provide telecommunication services. The operators will set up structures and inter-connect them with Telkom Kenya and other network operators to provide the services in those areas.

Mr. Temporary Deputy Speaker, Sir, various hon. Members have made several requests to the Ministry. One of these requests has been on the Universal Access Fund. Since we have liberalised the market, we are also looking at the requirement of the Universal Access Fund, and if it is found necessary, we shall ensure that it is done. One hon. Member also requested that the Ministry should consider removal of duty on telecommunication equipment. As I speak now, we are also in the process of reviewing all the duties that are charged on telecommunication equipment, and in conjunction with the Ministry of Finance, we will look at possible ways of making telecommunication equipment cheaper in the country.

Mr. Temporary Deputy Speaker, Sir, on the issue of the introduction of the VSAT, I would like to inform the hon. Members that this has been liberalised. At the moment, we have 21 applications which are pending processing. We have a 60-day gazette requirement. Some of the 21 applications have already gone through the 60-day period. We are going through the security check-up, and soon, we will ensure that this is working. Also, one hon. Member indicated that the fee charged is quite high. The fee of Kshs15 million is from what was being charged before. We are going to review this fee in the near future. Another hon. Member talked of the inter-connectivity charges. We are aware that they are high and are not affordable to most of our people. It is the intention of the Ministry to look at all these charges, so that as we work towards providing services in the rural areas, they should also be affordable to the people.

On the internet backbone and gateway, we also have applications already. As I speak now, we have received eight applications. We are going through them and in the near future, we shall announce what will have been decided. On the radio link and costing, we also understand that there are exorbitant fees that are being charged by the regulators. It is our intention to reduce these costs, so that they are affordable to every mwananchi.

Mr. Temporary Deputy Speaker, Sir, on the analogue list lines, one hon. Member has requested that it should be made available to the rural areas because it is cheap. Since the market is being opened up and there will be competition, I believe some of these costs will go down.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Ethuro): Thank you, Mr. Assistant Minister. I now call upon the Mover of the Motion to reply.

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, before I say anything, I wish to give Mr. Moi three minutes.

Mr. Moi: Mr. Temporary Deputy Speaker, Sir, I would like to thank the hon. Member for bringing this Motion. First and foremost, it is evident that Telkom Kenya cannot provide these services for a myriad of reasons. Will Kenyans continue to suffer because of Telkom's inability?

We do know that one aspect which has to be covered is the complete liberalisation of the ICT of the telecommunication sector. The problem is that if it is done, especially Voice of Internet Protocol (VOIP), Telkom Kenya will not be able to pay the next month's salary. That is a fact. That is the dilemma I think they seem to have. But more important than that, I think the universal access to ICT needs a national champion. It is very important to have a national champion. Most countries of the world have it. For example, in Rwanda, it is the President. I do not see why we cannot have the same in Kenya. The President should be the national champion of the ICT. The ICT is the engine to economic growth. It is greater than all the other aspects.

Mr. Temporary Deputy Speaker, Sir, the other issue which is important to look at, if one has to have universal access to ICT, is power in rural areas. Whether is it solar or wind energy, the Government must make a commitment to ensure that there is power available. Secondly, we need to give the operators the incentives to go down to the rural areas. We know that the only way the operators can go down to the rural areas is if there is a profit for them. Basically, what I am talking about, as the hon. Member said, is tax breaks. We need to give the entrepreneurs incentives so that they invest in the rural areas.

Thirdly, it is important again for the donations of the ICT products to be tax-deductible on corporate tax. That way, the big organisations will find it easier, and to their benefit, to donate to the rural areas. They could donate computers to our schools, or other forms of ICT. I think it is also very important if the Government could have a national ICT Advisory Council with strong private sector participation. It is absolutely important and imperative.

In summary, we should have a national champion being the President, the private sector and favourable regulatory framework which would bring about universal access to ICT.

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

Dr. Ali: Mr. Temporary Deputy Speaker, Sir, I wish to thank the House for supporting and amending the Motion. It is now very beautiful. It will obviously help me more than I intended before. I thank the Mover of the amendment. I wish also to thank the Government and the Assistant Minister for supporting the Motion.

However, I have some few queries here. The Assistant Minister says the Government is reviewing duty for facilities which people can import. That is very good and I appreciate it. But I hope and wish that the issue of security will not be used to interfere with the market. I believe some people will not be left out because they are not wanted by the Government of the day. The market should be open to everybody and whoever can afford should be given the licence to operate.

The other problem is the number of companies that applied for the licences. The Minister mentioned about 21 companies. I think that number is for data purposes. How many people can pay Kshs15 million? It is very expensive. What about the Voice-Over-Internet (VOI)? We need all and every service sector to be operational.

The Government has to establish the Universal Service Obligation Fund. That would be helpful in marginalised areas. I come from a marginalised and rural area. The Chair also comes from such an area. The Government can subsidise facilities in those areas. As the hon. Member said earlier, the Government can give tax incentives in such areas, by using those funds. That way, every area will be covered.

Mr. Temporary Deputy Speaker, Sir, the Minister mentioned a company which was given the contract for Northern Kenya. The company has established some offices in Garissa and put up some facilities. But, unfortunately, the mobile phones they have given to the subscribers can only

talk to one another. They cannot talk to anybody using a land-line, Safaricom or Kencell lines. There is no inter-connection between them. The inter-connection fees are so exorbitant. In any case, I have been made to understand that, the inter-connection fees are not favouring Telkom, which is giving the radio links. Safaricom is going to buy off all the 60 per cent shares of Telkom in Safaricom very soon. If somebody decides to call a land-line using a Safaricom line and you do not even get who you want, they are going to charge Telkom. The way things are going on, very soon, the whole of Safaricom will go to Vodafone and Kencell will own more shares in Telkom. The best thing is to allow other Kenyans to come up with such companies. That way, they will benefit from such facilities, instead of foreigners.

With those few remarks, I beg to move.

(Applause)

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

That, this House approves that in view of the fact that Telkom Kenya has failed to provide services in rural areas of this country, claiming it is very expensive to provide such services, recognising that rural areas require those facilities, this House urges the Government to authorise individuals and/or private organisations to provide telecommunication services in all rural areas.

The Temporary Deputy Speaker (Mr. Ethuro): Next Order!

WITHHOLDING OF SCHOOL CERTIFICATES
ON ACCOUNT OF FEES BALANCES

Mr. Musila: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:- THAT, noting with concern that students who have sat for the Kenya Certificate of Secondary Education examinations continue to be denied their certificates on account of school fees balances; aware that the bursaries allocated to schools are inadequate to cater for all the needy students; conscious that academic testimonials are statutory requirements for career and job opportunities; and appreciating that the schools require adequate funds to meet the cost of their maintenance; this House recommends;

(i) that all certificates held by schools on account of fees balances be released forthwith; and that, no more certificates shall be withheld by schools on account of fees balances in future; and,

(ii) that the Ministry finds ways and means of compensating the affected schools.

Mr. Temporary Deputy Speaker, Sir, first, let me pay tribute to His Excellency the President for the introduction of free primary school education. I know that when the proposal to introduce free primary education was mooted, a lot of people said that it was not possible, and yet now it is a reality. My Motion concerns the next stage of education after primary, namely, secondary school education. Over the years, the cost of secondary school education has risen so high that it has gone beyond the reach of ordinary Kenyans. Majority of Kenyans cannot afford to pay school fees for their children in secondary schools. The lowest school fees in a secondary school in the rural areas, which must be a day school, is about Kshs10,000 per annum. School fees charged in boarding

schools in rural areas, on average, is Kshs25,000 per annum, although some schools charge Kshs30,000 per annum. We all know that over 70 per cent of our people live below the poverty line. Yesterday, the Minister for Planning and National Development released some very scaring statistics, which confirm what I am saying.

Mr. Temporary Deputy Speaker, Sir, in my constituency, and I believe it is the case in most, if not all, constituencies represented here; people do not only live below the poverty line, but far much below the poverty line. I am talking about people who cannot even afford a single meal a day, and yet they are required to pay the amount of money I have mentioned. I am talking about widows, widowers and orphaned children who cannot get school fees. I am also talking about recipients of famine relief food. Asking these people to pay Kshs25,000 or Kshs30,000 for their children is a big joke. The matter is even complicated further when it is known that some of these parents have more than one child in secondary school. I dare say that those parents who have managed to take their children through to Form Four, in most cases, have only been able to do so because they have sold their land, cattle and all they have including their daughters.

Owing to the inability of parents to pay fees, students have ended up with unpaid fees balances when they finish Form Four. A large number of them, as a matter of fact, drop out of school before they reach Form Four. In my constituency, every year, over 100 secondary school students drop out of school because they cannot pay school fees.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Let us listen to the Mover of this Motion. He is stating important facts.

Mr. Musila: Thank you, Mr. Temporary Deputy Speaker, Sir, for that protection.

Even before finishing Form Four, there are lot of students who drop out of school. I gave an example of Mwingi South Constituency where over 100 secondary school students drop out of school every year for lack of school fees. What happens is that those who manage to finish remain with huge balances which are unpaid. For the last 10 or 14 years, schools have been retaining students' certificates and even testimonials in the pretext that, that is their security. I am not trying to blame secondary schools for retaining these certificates. I am saying that they do so, hoping that they will be paid some day because there are costs involved. These students sit for examination and some pass very well, but the principals retain their certificates. Therefore, they cannot access employment opportunities as employers require that students produce original certificates before they get employment.

We all know that even some are denied opportunities in higher education because they cannot produce their certificates. Our society has continued to condemn poor students into permanent poverty because these students would like to pay school fees. They want their certificates and employment, but our system of education is such that if a student finishes school and he has not cleared his balance of school fees, he does not get his certificate. Therefore, this student is condemned. They come from poor families. Maybe they are orphans. So, they are condemned to poverty. This is a shame for a nation and it is a big scandal.

The other day, a middle-aged lady approached me. I thought she was approaching me about the leaving certificate of her child. But she told me her certificate has been held for the last 10 years by her former school. She said that although she cannot go to seek employment, at least, she wanted to keep that certificate to show her children that she ever went to school. So, the matter is very serious.

When I filed this Motion in April this year, I simultaneously put a Question to the Minister

for Education, Science and Technology, to provide me with information that will enable this House to appreciate the problem that is confronting this nation in as far as this matter is concerned. I regret to say the Minister for Education, Science and Technology has been most unco-operative in this regard. In his letter to me of May this year, he required for more time because the schools were in recess. He promised that when schools resumed, he would give us the number of children across the country who have been denied their certificates. Schools opened and closed. They are open again, and up to now the Minister for Education, Science and Technology has refused to give this House information on the number of certificates they are holding. This is because they know that it is a big scandal in their Ministry.

In his letter, the Minister did admit to me that they are holding many certificates for the following reasons:

1. Non-clearance of school fees arrears.
2. Some students have been involved in school riots and they failed to clear the balances to offset the damages caused.
3. Some certificates have been withheld due to failure to pay development fund.

I am asking this House to compel the Ministry of Education, Science and Technology, to release certificates of these poor children. It is not their fault that they are not paying school fees. They wish they had paid. Some of those students are orphans, while some parents are widows, and as I have said, they are poor. Some of them have not seen Kshs1,000, and yet they are being asked to pay Kshs50,000 or Kshs60,000 in fees balances.

Mr. Temporary Deputy Speaker, Sir, as a House, we must provide leadership and request the Ministry to release certificates of students who have fees arrears. Although the Minister refused to give us the number of students whose certificates have been detained by various schools for fees arrears, I have done research in my constituency and found that I have no less than 5,000 students who stay in the villages after they were denied their certificates by their schools. Some of those students passed very well with a mean grade of "B". These students have been condemned by our society because they are poor and they will never be employed. They will just remain in the villages.

Mr. Temporary Deputy Speaker, Sir, the second part of my Motion recognises the need for schools to be compensated because we know that boarding schools maintain children, take food from the shops on credit and have workers to pay. So, a school keeps those certificates with the hope that one day, a child will go with some money and the principal will go and pay the debt in the shop. But when it takes two, three or four years without the certificates being collected--- Why should we keep them in cartons and yet those students are suffering? That is why on the second part of my Motion, I say:-

"The Ministry must find ways and means of compensating the affected schools."

If the Minister wants to co-operate in this regard, he should visit every school, take stock of the number of certificates held, see how much money it is owed in form of fees arrears, and give it grants to write off those debts. The other day, we wrote off the debts of farmers in this House. We wrote off the debts for coffee farmers. We also wrote off the Agricultural Finance Corporation (AFC) loans that the farmers had taken. I understand we are in the process of writing off the debts of sugar-cane farmers. So, if we can write off the loans for the farmers, why can we not pay the debts of those students so that they can get their certificates to enable them to look for employment? I think it is immoral and evil to keep certificates of students who cannot clear their fees arrears.

The Ministry of Education, Science and Technology is not represented here even when I am moving this important Motion. This shows the contempt which some Ministers have for this House. I think that in due course, ways and means should be found on how to deal with people who show

contempt of the House.

I also want to say that if the worst comes to the worst, I may come to this House and introduce an amendment to the Education Act.

(Dr. Mwiria was applauded as he entered the Chamber)

I would like to tell the Assistant Minister, and I am glad he has come, that if the Ministry does not favourably take into account what I am saying here, we will introduce an amendment to the Education Act next new year like we did to the Pensions Act, to ensure that the Ministry complies with this requirement. This is because the Government should not condemn our children to permanent poverty while we are seeing.

Mr. Temporary Deputy Speaker, Sir, with these remarks, I beg to move the Motion and ask my friend, Mr. Kosgey, who was a former Minister for Education, Science and Technology, to second it.

(Applause)

Mr. Kosgey: Thank you, Mr. Temporary Deputy Speaker, Sir. At the outset, I would like to thank Mr. Musila for bringing this Motion to the House. It is a very important Motion---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Kosgey! I just want, before you proceed, to echo the words of the Mover, that it is really important that the responsible Minister be present. We are happy that the Assistant Minister has walked in the nick of time, but hopefully, in future, the Government side should be there!

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I would like to apologise to the House. But we had agreed with Mr. Musila that I try and get him some information relating to this Motion. When I left the Chamber, I said that I was rushing to get that information. Actually, I am surprised that he was attacking me when I was away.

Mr. Kosgey: Mr. Temporary Deputy Speaker, Sir, up to today, we are going towards November, and the Ministry is still trying to provide information to this House. That notwithstanding, I am very happy to second this Motion, which is a very, very important Motion.

As all of us know, education is actually a child's right. Secondary education is also very, very critical. Primary education is free but, actually, the right to education actually continues up to the first 12 years of a child's life. Therefore, it is important to provide education from Standard One to Form Four. Currently, parents have a very hard time in paying secondary school fees and they go through nightmares. If, today, you asked all the parents and hon. Members of Parliament what the biggest single problem they have in their constituencies and homes is, it is the payment of school fees, particularly secondary school fees. We know that the Ministry gives guidelines for school fees ranging from Kshs6,000 to about Kshs30,000. But the reality is different as schools charge up to Kshs70,000 per child, per year! To give an example, big schools like Alliance charge that figure. Can anybody tell me which parent can afford that high fees? Hence, so many parents finish school without clearing the school fees balances.

Out of the 3,700 schools, I think the school fees arrears runs to Kshs4 billion, if I am not wrong. The Assistant Minister can correct me if I am wrong, as I do not know the current figures. But it is a huge figure, which means that Kenyans cannot afford to pay these high school fees. Kenyans are poor! They are orphans, widows and poor people. The reality of the matter now is that

we must face the reality and know that Kenyans are poor. I am now calling on the Ministry to institute free secondary school education just as they have done for the free primary school education. Let us go the whole hog and introduce free secondary school education to solve this problem once and for all.

Regarding Form Four students, they go through a lot of hardship of being sent home for non-payment of school fees many times, and many problems do occur because they cannot afford school fees, and a lot of students drop out for this reason. But when they eventually finish, it is disheartening to note that they are denied their certificates. Not only are they denied their certificates, but they also end up not knowing their results because they are also not given their results. They only hear that they obtained this or that grade. Although sometimes the results are posted on the notice boards, do not forget that they do not even have the money to travel to their schools to check what is on the notice board! Without a certificate, they cannot access the training institutions, and you know very well that there is very high competition among these training institutions. If you do not have an original certificate, you cannot join any training institution. It is very, very hard and disheartening for a parent to struggle to sell a piece of land or do whatever is necessary, only to find that the child is unable to join an institution because of lack of school fees.

I also happen to know that there are some students--- We cannot call them students now; they are adults, who actually completed Form Four and they do not know their results up to today! Some finished Form Four 10 or even 20 years ago and just gave up because, after all, they could not raise the outstanding school fees arrears of Kshs20,000 or Kshs40,000. So, they just finish school, stay at home and join the rural poor. So, if we want to break the chain of poverty, we must provide education and give our children their certificates. Unfortunately, it is those who are really poor who are being hit by this thing. So, we are actually perpetuating poverty. The Ministry of Education, Science and Technology should contribute to fight poverty by making sure that Kenyan children go to school, and when they finish school, they get certificates and training opportunities that are required.

Mr. Temporary Deputy Speaker, Sir, the Kshs770 million provided as bursary fund in schools is a drop in the ocean. It is just a small drop! The Ministry should face the reality. Parents cannot afford to pay schools fees. Although it is a good thing the Government started the free primary education policy, the problem was not really in the primary schools; it is in secondary schools. That is where there is real crisis. Parents cannot afford the high amounts of school fees.

Mr. Temporary Deputy Speaker, Sir, I think the outstanding moneys that have piled up in all the secondary schools now amount to about Kshs1 billion. There is no point of the schools keeping these certificates. They do not belong to the schools. They are not securities! I do not know what they are holding those certificates for. If you were to compare it to the banking sector, banks have what they call "non-performing loans." These school fees arrears are just like non-performing loans. Write them off and provide some grants to the schools for what you have written off! What is the point of holding a certificate ten years down the line, hoping to recover Kshs10,000 from a pupil? Write them off! In fact, I happen to know cases where some schools raise their fees up to Kshs50,000 so that they can get it from the rich to subsidise the poor. So, if a kid from a rich family has already subsidised the poor, and I am not saying that should be the case, why hold these certificates again? Some of those schools do not even have that money. They should have provided for such situation long before, just like banks do.

Therefore, I want the Ministry to take this issue very seriously. The fact that they did not provide information since April, and up to today, the Minister was rushing around in the Ministry, trying to look for information, is very sad indeed. When I was there as Minister, these things were documented. We knew exactly the non-performing aspect of the arrears, and they should be there

and should have been provided to this House and the Mover of the Motion, so that we can effectively contribute to this Motion.

So, I urge the Ministry to face the reality. Release the certificates, write off those loans; where schools are unable to meet their costs, give them grants. The approximately Kshs1 billion that is required is not a lot of money; so that we can start a new chapter. We must re-look at the school fees structure. The ideal thing is to provide for free secondary education, and the business of some schools charging Kshs70,000 should not arise. There should be some discipline. Some headmasters or principals just run the schools even without following the school fees guidelines.

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

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! You should know better that after the Motion is seconded, the Chair has to propose the Question. I, therefore, wish to do exactly that.

(Question proposed)

Mr. Muturi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to add my voice in support of this Motion. I cannot agree with the Mover and the Seconder more in saying that it has now come to a time when the Government must look for ways and means of funding secondary school education in this country. On Saturday, I was in a school board meeting. We, as a board, received a request from a former student of that particular school who finished Form Four in 1998 and obtained a grade B plain. He only owes the school a balance of Kshs15,000. At some stage, he was willing to commit himself if the board found it fit to give him the certificate. He said he would be willing to make payments if he ever secured a job somewhere. That is how grave the situation is. The law is on the side of the students.

As Mr. Kosgey has just said about non-performing loans in banks where they are written off, we do the same with pending school fees and release the certificates. Assuming there was a contract between the students and the school, if the student has not been able to raise Kshs15,000 10 years down the road, how does the school feel morally in withholding the certificate of such students? These certificates are in their thousands. In calling and echoing the sentiments of the Mover and the Seconder, I think, in my view, the way forward should be, secondary school education in this country be addressed from the perspective of day schooling. A lot of fees balances are owed to boarding schools. As we all know, across the country, the fees charged in boarding schools are so high, and as a result, a lot of students are unable to meet all the school fees requirements. As a result, we have a scenario in which so many of our students are idling in the villages. They are not even able to get simple jobs that would only require them to show that they did their Kenya Certificate of Secondary School Education (KCSE) and that they are actually literate. The employers, as we know, have no other way of ascertaining that the person appearing before them or applying for a job has even been to school other than providing those testimonials, as the Motion appreciates. So, the Government must come to terms with this reality. It may well have been the case that we needed to have many boarding schools. However, the reality today is that the Government must consciously move towards encouraging day secondary schools, which among other things, as we know, charge less school fees and, therefore, will attract inevitably more students and also improve among other things, on discipline.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Muturi, I have to interrupt you since time is over. You have a balance of six minutes which you can take advantage of next Wednesday.

ADJOURNMENT

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

The House rose at 12.30 p.m.