

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 6th November, 2003

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

*(Loud consultations)*

**Mr. Deputy Speaker:** Hon. Members, that is a very bad way to start! I do not want to disrupt, but let us move on.

### QUESTIONS BY PRIVATE NOTICE

**Mr. Deputy Speaker:** Hon. Members, let us start with Questions by Private Notice. Let us move on to the first Question by Mr. Moroto.

#### UTILIZATION OF NACC MONEY IN WEST POKOT

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

How much money has been allocated to West Pokot District by the National Aids Control Council (NACC) and how has it been utilized?

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

The NACC has, so far, allocated funds to West Pokot District amounting to Kshs6,024,380. Out of that, an amount of Kshs4,951,880 has already been disbursed to the district and utilized as follows:-

(i) An amount of Kshs1,485,480 was utilized in community mobilization, HIV/AIDS activities and operational expenditure for

CACCs and former District Aids Control Committees (DACCs). The amount was distributed as follows:-

Community Mobilization	-	Kshs1,050,000
Operational expenses	-	Kshs415,480
World Aids Day Activities	-	Kshs20,000
<b>Total</b>	-	<b>Kshs1,485,480</b>

(ii) An amount of Kshs3,466,400 has been disbursed to community-based organisations which are involved in prevention and advocacy; support of orphans, care and support of people living with HIV/AIDS. The community-based organisations are:-

Pokot Educational and

Development Programme	- Kshs1,200,000
Great Rift Valley	
Development Agency	- Kshs741,900
PCEA Kapenguria Parish	
HIV/AIDS Programme	- Kshs650,000
Kabichbich Environment	
Youth Group	- Kshs350,000
Pokot Youth Development	
Group	- Kshs150,000
Kikilot Women Group	- Kshs200,000
Cheptuya Women Group	- Kshs174,500
<b>Total</b>	<b>- Kshs3,466,400</b>

Thank you.

**Mr. Moroto:** Mr. Deputy Speaker, Sir, I want to thank the Ministry for that allocation and disbursement to the district. We know the importance of that money and what it is going to do on the ground. Could the Assistant Minister tell this House whether all those groups that are mentioned in his reply exist in that district? For example, the Great Rift Valley Development Agency is not even in the register of West Pokot District. The person is not even known in that place.

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, I have detailed information on what each of those groups is doing. I am ready to share the information with the hon. Member. For example, the Great Rift Valley Development Agency has been covering Turkana and Pokot districts. Its activities involve youth, women and community workshops. For all those groups, we have detailed information on what they have done.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, some of the groups that have been receiving money from the NACC are amorphous in the constituencies. In my constituency, one group that was given that money bought a television set. What criteria is the Ministry using to determine who should receive that money? We have some amorphous and fraudulent groups operating within the constituencies and getting money from the Ministry.

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, the money that goes to community-based groups at the constituency level is allocated by the Constituency Aids Control Committees (CACCs) where hon. Members are members. If hon. Members are not in those committees, then they are not doing their work. Those groups are registered by the relevant Ministry. They are not supposed to be registered as limited companies or Non-Governmental Organisations (NGOs). The registration is easy to enable community-based groups to get involved. I urge all hon. Members to get involved in those committees.

**Mr. Abdirahman:** Mr. Deputy Speaker, Sir, it is apparent that we have problems of coordination. We realise that the Ministry of Health does not know which groups have been funded at the district level. Could the Assistant Minister tell us how they are going to address the missing link in terms of coordination? Many CACCs do not sit to discuss when those funds will be disbursed. Honestly, what the Assistant Minister has read here are proposals that are seen on paper. We want him to tell us how they will coordinate that programme from the national level down to the grassroots.

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, hon. Members need to assert themselves because they are members of the CACCS. That is because, previously, Members of Parliament used to chair those committees. As of now, there is a national body and provincial coordinators. In the new programme of total war against HIV/AIDS, which was to be launched when the former Vice-President died, the CACCS are supposed to be very robust. Members of Parliament are advised to take their appropriate role, so that they can know what is happening! This is a very serious war against HIV/AIDS and I am sure everything will be streamlined.

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

**Mr. Deputy Speaker:** Just a minute before you raise your point order! I also happen to have a constituency. The Assistant Minister is also the Member for Makueni. Mr. Assistant Minister, do you believe in what you are saying?

*(Applause)*

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, I believe in what I am saying 100 per cent because I have been attending the Makueni Constituency AIDS Control Committee (CACC). Initially, I was appointed the Chairman but I said that somebody should chair the committee. So, if hon. Members do not attend the CACCs, then they are not taking the war against HIV/AIDS seriously.

**Mr. Angwenyi:** On a point of order, Mr. Deputy Speaker, Sir. This is a very serious matter. It is serious because we are devoting a lot of resources to the fight against HIV/AIDS. Our people are dying from HIV/AIDS related diseases. This matter is also serious because we have got orphans who cannot be taken care of. This is the case, and yet the Assistant Minister comes here to tell us that we are not concerned with the fight against HIV/AIDS in our constituencies. This Ministry is not capable of handling the fight against HIV/AIDS in this country!

**Mr. Deputy Speaker:** Mr. Angwenyi, what is your point of order?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, is the Assistant Minister in order to tell us that the Ministry is in charge of the HIV/AIDS funds and that we are not concerned about the fight against HIV/AIDS in our constituencies, when we know that we are very concerned? The problem is that the Government gives out money to crooks!

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, first, I do not think that is a point of order. But---

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

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! The Chair rules that, that is a proper point of order!

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, to answer that question, I think hon. Members have to take this work very seriously. I am saying this because hon. Members should attend the HIV/AIDS committees in their constituencies. It does not help anybody---

*(Loud consultations)*

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

**Mr. Deputy Speaker:** Order! Mr. Assistant Minister, I think you are putting yourself into a lot of trouble. You can hear the sentiments being expressed by hon. Members, especially when you keep on saying that they are not taking the CACCs' work seriously, when I know they have been taking it seriously.

Mr. Assistant Minister, are you really sure that we should continue this way? I do not know whether the Chair should declare interest in this matter or not.

Could I hear Ms. Mwau?

**Ms. Mwau:** Mr. Deputy Speaker, Sir, I would like the Assistant Minister to tell us whether the CACCs are functional because I understand that they have been disbanded.

*(Applause)*

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, the HIV/AIDS committees at the district and

provincial levels were disbanded. This was meant to strengthen the CACCs.

**Hon. Members:** No! You are not telling us the truth!

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, that is why we will launch a total war against HIV/AIDS. It is true that, in the past, these committees were weak and to strengthen, them hon. Members have to be part and parcel of those committee's.

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

**Mr. Deputy Speaker:** Order! Hon. Members, we can go on and on with this matter but we should end there!

**Dr. Ali:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that hon. Members are not committed to the CACCs when the House is in an uproar? We know very well that the CACCs are not functional, and yet the Assistant Minister is talking about strengthening them. He is taking this House for a ride. When he talks of strengthening the CACCs, he should ensure that they are functional.

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, as things stand now, hon. Members are part and parcel of those committees. So, if that is not clear, I would like to make it clear because we are part and parcel of those committees. We must make those committees work. If we do not make those committees work, who will make them work? The President will launch the new total war against HIV/AIDS programme and the constituencies will be at the forefront in the fight against this disease. The programme will be launched within two weeks. Hon. Members have to be part and parcel of that process.

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

**Mr. Deputy Speaker:** Order, Mr. Wanjala! Your point of order is overruled!

Mr. Moroto, ask your last question!

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

**Mr. Deputy Speaker:** Mr. Wanjala, you are disorderly! Get out of the Chamber!

*(Mr. Wanjala stood up in his place)*

Mr. Moroto, hold on until the stranger gets out of the Chamber!

*(Mr. Wanjala withdrew from the Chamber)*

Hon. Members, I know there are some people who think that they become heroes when they are disorderly. This is not right and it should not happen. When the Chair rules over something, one should not continue raising points of order on it.

Mr. Moroto, ask your last question!

**Mr. Moroto:** Mr. Deputy Speaker, Sir, you can see that the Assistant Minister has confused the House even more. Could he tell us how we can work at the constituency level to ensure that the money disbursed by the Government to the AIDS committees at the constituency level is used properly?

**Prof. Kibwana:** Mr. Deputy Speaker, Sir, we will launch the Restructured Institutional Framework of the National Aids Control Council (NACC) in two weeks' time in Mombasa with emphasis to strengthen the CACCs. During the period, we will do stock-taking. I insist that there will be no shortcuts in the fight against HIV/AIDS. Therefore, hon. Members should work very hard in the CACCs. I look forward to that kind of work. **Mr. Nyachae:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** No more points of order on that matter! I can only hope that---

**Hon. Members:** Give Mr. Nyachae a chance!

**Mr. Deputy Speaker:** Order! As much as I respect Mr. Nyachae, I deny him a chance to raise his point of order because of the behaviour of hon. Members. I will not allow him to raise his point of order. But I was saying that I hope the Assistant Minister will take the sentiments expressed by this House seriously. This is because I do not think that the House is happy with the answer he has given. The matter should rest there!

Let us move to the next Question!

SHORTAGE OF STAFF IN MARALAL  
HEALTH FACILITIES

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

(a) Is the Minister aware of the acute shortage of medical staff in the health care facilities in Maralal District, especially dental technologists?

(b) Why were 25 medical staff transferred against an authorised establishment of 74 doctors and nurses?

(c) When will the Minister post medical staff to the district hospital?

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

(a) I am aware that there is a shortage of medical staff in Government health care facilities in Samburu District. I am also aware that there is no dental technologist in Maralal District Hospital. This is because of lack of a dental laboratory. There are plans to set up a dental clinic at the hospital. Once this is done, a dental technologist will then be posted there. In the meantime, the hospital has a Community Oral Health Officer.

(b) Medical staff have been transferred to and from all health institutions countrywide, including Samburu District, as an administrative measure to improve efficiency. Under the current staffing levels in Samburu District, the provision of services will not be affected because of staff transfers.

(c) The Ministry is in the process of recruiting additional medical personnel and some of them will be posted to Maralal District Hospital to address the current shortfall.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, the answer given is too general. I would like the Assistant Minister to be more specific. When will the dental clinic be set up? When will the dental technologist be posted to the facility? The Community Oral Health Officer is breaking more teeth than he is extracting at the moment.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members!

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I need to consult further on this because it touches on finances. We will look for funds to purchase and procure dental equipment in the next financial year. At the moment, there is no laboratory at the facility so we cannot post a dental technologist there.

**Mr. Bahari:** Mr. Deputy Speaker, Sir, the issue of transferring staff without taking into consideration the establishment of that particular hospital is not unique to Samburu District. It is very common to other hospitals. Could the Assistant Minister undertake to review the staff complement against the establishment and rationalise staff in all hospitals in the country?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Ministry would like to provide staff complement to all hospitals against the establishment but it is facing problems, like death of staff. This year, Samburu District Hospital lost three nurses and nine were transferred for various reasons, including promotions, going for further training and rationalisation of staff in other districts that had staffing problems. The Ministry will provide adequate staff to those hospitals once they are recruited and, therefore, I would request Mr. Bahari to bear with us.

**Mr. Leshore:** Mr. Deputy Speaker, Sir, Samburu District has a shortage of 74 nurses and yet the Assistant Minister has transferred 25 nurses from the district. Nurses in dispensaries have not gone for their annual leave for the last five years. What action is the Assistant Minister taking to address the situation?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I did not get the question. Could the hon. Member repeat the question?

**Mr. Leshore:** Mr. Deputy Speaker, Sir, what action is he taking to address the situation? He cannot transfer 25 nurses from the district while we have a shortage of 74 nurses.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I am aware that there is a shortage of 25 nurses in the district. However, we will address this issue once we recruit additional staff. We are yet to get authority from the Treasury.

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, I would like the Assistant Minister to confirm that he will provide staff for Baragoi Hospital which has a laboratory and no dental technologist. Very many people are dying from Malaria.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I will liaise with the Medical Officer of Health (MoH) on that issue as soon as I get to the office.

## ORAL ANSWERS TO QUESTIONS

### *Question No.801*

#### REHABILITATION/SALE OF GOVERNMENT VEHICLES

**Mr. Kingi** asked the Minister for Finance what plans the Government has to either rehabilitate or sell the GK vehicles lying in the Government yards all over the country.

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

It is true that quite a number of GK vehicles are lying in Government yards all over the country. These vehicles can be divided into the following categories:-

- A. Vehicles awaiting technical assessment and determination of the cost of repair.
- B. Vehicles whose cost of repair has been determined, but they are awaiting confirmation that funds are available for the repairs.
- C. Vehicles whose repair costs have been determined and found to be beyond economic repair. These are awaiting boarding.
- D. Vehicles which have been boarded through the Board of Survey and are awaiting disposal through open tender.
- E. Vehicles which have been boarded and tendered for sale, but have not received the requisite tenders.

Mr. Deputy Speaker, Sir, the Public Procurement Rules and Regulations, 2001, provide the procedures for disposal of boarded vehicles. Each Ministry is charged with the responsibility of

purchase, maintenance, repair, rehabilitation and disposal of vehicles under its jurisdiction.

**Mr. Kingi:** Mr. Deputy Speaker, Sir, I must say from the outset that I am rather disappointed in the Minister's answer. There are thousands of GK vehicles worth billions of shillings rotting away. The Question seeks to know the elaborate plans the Minister has to save this country the thousands of shillings going to waste. But he has categorised the vehicles instead. Who is interested in categories? We know them and the plans that they have. However, we want to hear from him what kind of plans he has in place to save this country. If he has none, let him say so and we will forgive him. We are a very forgiving House!

*(Laughter)*

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, I appreciate such a forgiving heart. These categories are there but the Ministry of Finance does not have an overall policy. The policy is set out in the Public Procurement Rules and Regulations and each Ministry deals with its own vehicles. If the hon. Member wishes to know what I am doing in the Treasury, I can tell him that all the vehicles which are repairable are undergoing repair.

**Dr. Kuti:** Mr. Deputy Speaker, Sir, we know that these vehicles are categorised. But in the past, a well functional vehicle was sometimes parked because it had a very small mechanical defect. It was then technically boarded and sold. What measures is the Minister putting in place to curtail this kind of rip-off of the Government?

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, we have already sent out a Circular asking for the various categories and how much it would cost to repair each vehicle. We want to determine to what extent we are likely to lose if we allowed those vehicles to be cannibalised.

**Mr. Midiwo:** Mr. Deputy Speaker, Sir, the Minister has said that they do not have a general policy. However, I think the NARC Government promised Kenyans to simplify governance. This year alone, we have seen all the Ministers riding in new cars. Why can they not sell these vehicles as junk to Kenyans? Could the Minister consider selling all these vehicles? If there is a technicality in law, bring it here and we will amend it accordingly so that we raise money instead of borrowing.

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, let me start off by correcting the statement. I said that we have a general policy, but the Treasury does not control what happens to vehicles in every Ministry. I have said it many times that we want to give the Kenyan taxpayer value for money. The Ministry, for instance, is proposing to buy new vehicles directly from the suppliers. There will be no middlemen. We will cut the percentage which used to be "eaten" by middlemen. So, I want to assure the hon. Member, who has asked the question, that we are seriously considering repairing vehicles which are repairable. That is why I took the trouble to itemise the vehicles. However, we are intending to sell those which are not repairable. Where we find the sale price offered being too low, I am afraid, we will not sell them. We are even considering cannibalising the vehicles so that we can make as much money as possible.

**Mr. Kingi:** Mr. Deputy Speaker, Sir, most of those vehicles were mishandled by reckless and careless drivers. As the Government plans to buy new vehicles, what plans have been put in place to ensure that even those new vehicles will not be mishandled by the same drivers?

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, that is an excellent question. It is true that the NARC Government inherited the Civil Service which used to serve the KANU Government. Some of the people are not really good enough. We have started a retraining programme. We are starting off with chiefs and District Officers (DOs), among other civil servants. Honestly, those who will be found wanting will be sacked, including the drivers who have been wrecking cars.

**Mr. Deputy Speaker:** Next Question, Mr. Kamama!

*Question No.310*

## KVDA PROJECTS IN BARINGO EAST

**Mr. Kamama** asked the Minister for Regional Development:-

- (a) how many projects have been established in Baringo East Constituency by Kerio Valley Development Authority (KVDA) since its inception; and,  
(b) whether he could consider initiating development projects in Baringo East since it falls within the catchment.

**The Minister for Regional Development** (Mr. Kombo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Since its inception, KVDA has established the following projects in Baringo East Constituency:-

1. A beekeeping and honey production project in Kolowa Division.
2. The distribution of 300 modern beehives to farmers in the constituency.
3. Provision of extension services to farmers in beekeeping and honey production management.
4. Establishment of four honey comb collection centres at Loiwat, Maron, Chepturu and Barbelo. Farmers deliver honey to these centres and KVDA purchases, processes and markets it.

Since the inception of beekeeping and honey production, over 37 metric tonnes of honey have been marketed by KVDA annually, earning the farmers about Kshs3 million.

Apart from beekeeping, there is the problem of water. KVDA, in conjunction with the Catholic Diocese of Eldoret, has identified and designed five small dams. Three of these dams have been successfully completed. These are Tugum Dam in Ngoron Location, Ayelelion Water Pan in Kolowa Location and Kerelon Dam in Loiwat Location. The dams were constructed at the cost of Kshs5 million, with KVDA providing Kshs3.2 million.

Further, KVDA is also currently carrying out studies on the feasibility of using water from Embobut River in Marakwet District for irrigation.

(b) In addition to the on-going programmes, the future programmes that KVDA is organising in the constituency are as follows: The construction of Sugut Dam in Ngoron Location, the desiltation of the existing old dams, the construction of a livestock sale yard at Kolowa and the distribution of 300 more beehives.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I think the Minister, who is my good friend, has done his assignment well. He has answered this Question to my satisfaction. However, I have certain reservations. Every year the Government gives KVDA a lot of money. However, what has been given to my constituency since 1979 is peanuts. Could the Minister consider initiating irrigation projects along Kerio River because he has indicated that there is a feasibility study which is going on? Baringo East Constituency is known for receiving famine relief every year.

**Mr. Kombo:** Mr. Deputy Speaker, Sir, I have actually said that the studies we are carrying out, and the dams we are building, will assist in the irrigation programmes. I also do accept that the money, perhaps, given to the constituency has not been that much. However, part of the problem is that KVDA covers a large area; not just Baringo East Constituency. Also, in the past, there has been a lot of pilferage and we are taking care of that so that every single cent going to KVDA will be distributed to the constituencies.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, you heard the Minister say that there are insufficient projects in Baringo East Constituency. One of the reasons for this is that some money was



misappropriated. We know that his predecessor told this House that Kshs264 million was misappropriated by the directors of KVDA. When will those directors be brought to book?

**Mr. Kombo:** Mr. Deputy Speaker, Sir, I did accept that, in the past, there has been misuse of funds by the development authorities. However, the National Rainbow Coalition (NARC), which is zero-tolerant to corruption, has already taken action at the Kerio Valley Development Authority (KVDA) and these people have been suspended.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. My question is: When will the former employees, who have been suspended for embezzlement of funds be brought to book, just like the directors of the collapsed Euro Bank and former Ministry of Health Permanent Secretaries (PSs)? Are we doing "selective" discrimination here?

**Mr. Kombo:** Mr. Deputy Speaker, Sir, we believe in the rule of law and action is being taken. So, we are dealing with those people.

*Question No.738*

NUMBER OF MEDICAL SPECIALISTS IN NEP

**Mr. M.A. Haji** asked the Minister for Health:-

- (a) how many medical specialists - doctors, dentists and pharmacists - were employed by the Ministry as at 31st January, 2003; and,
- (b) how many of them work in the North Eastern Province (NEP).

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

(a) Medical specialists in direct Ministry of Health employment as at 31st January, 2003, were 1,005 doctors, 135 pharmacists and 126 dentists.

(b) Out of the numbers given above, in the NEP, there are eight doctors and two dentists. There is no pharmacist.

Mr. Deputy Speaker, Sir, there is a general acute shortage of doctors, pharmacists and other health care workers in the country, especially in the NEP. However, the Ministry intends to deploy additional officers to the province and other areas with an acute shortage of specialists as we continue to train, receive and employ more staff.

**Mr. M.A. Haji:** Mr. Deputy Speaker, Sir, from the answer given by the Assistant Minister, I think the problem in the NEP is not due to shortage of these medical personnel. It is because these specialists do not want to work in the province. We know that the Ministry keeps posting them to the province but, because they can work elsewhere, and because they can set up their own clinics, they simply do not report to their stations in the NEP. However, since these are very essential personnel, they always have their way, and the Ministry posts them elsewhere. What elaborate plans or policy does the Ministry have for posting and retaining medical specialists in the NEP, especially to Garissa Provincial General Hospital? I have in mind incentives such as giving priority to medical specialists working in that area in terms of awarding them hardship allowances or tax relief.

**Mr. Deputy Speaker:** Mr. M.A. Haji, are you asking a question or debating? Mr. Assistant Minister, have you heard the hon. Member's question?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I have heard the question. We have a lot of trained officers, but I do not know how we can encourage them to go and work in the NEP. I believe that the Ministry will, in future, try to address the situation by recruiting such specialists directly to go and work in those areas. They will be recruited on a contract basis. So, once one is posted to that area, he will have to be there for a specific period of time. That is the way the Ministry is planning

to handle the situation in future.

**Maj. Sugow:** Mr. Deputy Speaker, Sir, I think the NEP has a shortage of close to 1,040 nurses. The current situation is not just about shortage of medical specialists but even other general staff are lacking. About 40 per cent of public health institutions in the NEP have closed down and health services in that province are in the doldrums. What is the Ministry doing to ensure that health service delivery in that area is restored?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Ministry is aware of the gravity of the situation. The Ministry is able to deal easily with the recruitment of junior staff. Medical officers, from the level of clinical officers and below, can be recruited on affirmative action-basis to ensure that they serve in that area for, at least, five years. However, when it comes to recruitment of medical specialists, we really have no control over them. I do not know how we can deal with the situation in that respect; unless and until we recruit them directly for particular stations in that area, so that they can work there for a specific period of time.

**Mr. Deputy Speaker:** This is a special Question. So, can we hear Mr. Boit since he used to train medical personnel?

**Mr. Boit:** Mr. Deputy Speaker, Sir, when is the Assistant Minister going to employ medical engineering technicians? These are specialists who can repair a variety of medical equipment such as X-Ray machines and mobile clinic vehicles, which are in disuse at district hospitals. This cadre of medical personnel are just roaming the streets when their job is readily available. The Government has spent a lot of money training them. I think medical engineering staff are also specialists in their own way. Could he tell us when he is going to employ them?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, I did not get the question.

**Mr. Deputy Speaker:** The question is: Could you consider employing medical engineering staff, who are currently trained but not employed?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, most of our hospitals have engineering departments, which maintain and repair all hospital equipment. However, if the need arises at our hospitals, we will definitely consider employing the medical engineers.

**Mr. Deputy Speaker:** Let us have the last question on this matter from Mr. M.A. Haji.

**Mr. M.A. Haji:** Mr. Deputy Speaker, Sir, considering the distance and the costs that the people of the NEP incur when they travel to Nairobi for specialised treatment, could the Assistant Minister consider making Garissa Provincial General Hospital an intern centre, to train duly qualified doctors, dentists and pharmacists, so that NEP residents can be sure of accessing specialised medical services?

**Mr. Konchella:** Mr. Deputy Speaker, Sir, that is a very good suggestion but, due to current financial constraints, we cannot implement it now. We will, possibly, do so in the future. I think a proposal like that one is very important.

**Dr. Ali:** On a point of order, Mr. Deputy Speaker, Sir. Once doctors interns, dentists and pharmacists are employed, whether they are sent to Kisumu or Maralal or Garissa, they get paid. They are already employed. So, he has only to deploy some of them to Garissa Provincial Hospital and establish an intern centre. What funds is the Assistant Minister talking about? Is he in order to mislead the House?

**Mr. Deputy Speaker:** Mr. Assistant Minister, Dr. Ali appears to have made a statement rather than raise a point of order. But if you wish to comment on it, I will allow you to do so, because it is an important statement.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, since the hon. Member is a medical doctor himself, I will encourage him to talk to his colleagues and we will support them to go and work there.

(Laughter)

Question No.393

SEWERAGE SYSTEM FOR KERUGOYA/  
KUTUS MUNICIPALITY

**Mr. Karaba** asked the Minister for Water Resources Management and Development:-

(a) whether she is aware that Kerugoya/Kutus Municipality has no sewerage system; and,

(b) if the answer to "a" above is in the affirmative, when it will be constructed.

**The Minister for Water Resources Management and Development** (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Kerugoya/Kutus Municipality, like many other small municipalities, has no sewerage system. A design for the sewerage system was carried out by a consulting engineer in the early 1980s. However, construction of the sewerage system was not undertaken due to lack of budgetary allocation for the project. Since taking over the mandate for waste water treatment and disposal, my Ministry has initiated plans to develop a combined sewerage system for Kerugoya and Kutus Towns. Since the earlier design does not cater for the increased population and coverage, we have set aside Kshs5 million in the current financial year towards planning and design of the sewerage system for Kerugoya/Kutus Municipality.

(b) Once the required design and cost estimates have been completed, which we hope by March, 2004, budgetary provision for a phased construction of the project will be provided for.

**Hon. Members:** *Tosha! Tosha!*

**Mr. Deputy Speaker:** Order! Order, hon. Members!

**Mr. Karaba:** I will continue asking further questions! I am the one asking the question! I am not satisfied! I do not know why you are imputing that I am satisfied! I am not!

**Mr. Deputy Speaker:** Order, Mr. Karaba! You should address the Chair! You are communicating with the Members directly.

Proceed, Mr. Karaba!

**Mr. Karaba:** Mr. Deputy Speaker, Sir, I am satisfied with the answer but, all the same, I would like to draw the attention of the Minister to the fact that design work has taken 20 years. Now, with the new Government in place, what assurance is the Minister giving this House that the project will be included in the next financial year?

**Ms. Karua:** Mr. Deputy Speaker, Sir, I think the matter is self-evident. If, within less than a year, we have taken steps to rectify the situation, that is proof enough.

**Mr. Nderitu:** Mr. Deputy Speaker, Sir, Kutus is part of my constituency. We are very satisfied with that answer but what plans does the Ministry have for all the other urban centres in this county? To add on that, Mwea is downstream of Kerugoya/Kutus. There is a lot of effluent from man-holes and septic tanks which goes into the river and when people take that water, they suffer from bilharzia, amoebiosis and typhoid. What action is the Government taking?

**Ms. Karua:** Mr. Deputy Speaker, Sir, as I said in my answer, that is the situation in most of the small towns. We are undertaking studies in most of those towns. The method we are using is to cluster those towns together to tackle issues of water and sewerage. As for the pollution, the Water Resources Management Authority, which is set to be established before the end of this year, will

tackle issues of pollution and management of the resource base. **Mr. Deputy Speaker:** Mr. Karaba, do you want to ask the last question or you are satisfied?

**Mr. Karaba:** I am satisfied!

**Mr. Deputy Speaker:** Next Question!

*Question No.737*

PROVISION OF SERVICES TO NGARE  
BY NYAHURURU MUNICIPALITY

**Mr. Muchiri** asked the Minister for Local Government:-

(a) when the residents of Kiriita Village in Ngare Narok Ward will be connected to Nyahururu Town by the Nyahururu Municipal Council; and,

(b) whether he is satisfied that the residents merit to be part of the Nyahururu Municipality, when they receive no tangible services from the council.

**The Assistant Minister for Local Government** (Mrs. Tett): Mr. Deputy speaker, Sir, I beg to reply.

(a) There are plans to construct a six-kilometre road and bridge across Ewaso Nyiro River for Kiriita residents to access the Nyahururu Central Business District in the near future, through the Kiriita Forest. The proposal to construct the road was presented to the District Development Committee (DDC), Laikipia, and approved under Minute No.10/ORD/DDC/98-V(4).

(b) The Minister is satisfied that the residents merit to be part of Nyahururu Municipality, as they are receiving tangible services from the municipality.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, the residents of Kiriita have to go through Nyandarua District and Central Province to access Nyahururu Town. They do not need a bridge because there is a permanent bridge there. Could the Assistant Minister confirm when that access road will be built?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, we are waiting for the Ministry of Environment, Natural Resources and Wildlife to approve that project because it has to pass through the forest. We are pushing them to do so as soon as possible.

**Mr. Waitthaka:** Mr. Deputy Speaker, Sir, sometimes we sympathise with the Ministers when they are answering Questions because those who write the answers for them do not know what they are talking about. The hon. Member has said that there is requirement for a bridge to access Kiriita from Nyahururu. It is true because that is a place I know very well. But having said that, the Question is indicating that there are no tangible services to Kiriita residents by the Nyahururu Municipality. The Assistant Minister, on the other hand, has said that they merit to be part of Nyahururu Municipal Council because they receive tangible services. Could she enumerate the tangible services she is referring to?

*(Applause)*

**Mrs. Tett:** Mr. Deputy Speaker, Sir, there are market and recreational facilities.

*(Laughter)*

**Mr. G.G. Kariuki:** Mr. Deputy Speaker, Sir, it seems to me that the hon. Assistant Minister does not know the area and, therefore, does not understand the Question. The area does not require

any bridge and, secondly, those people do not merit to be under the Nyahururu Municipal Council because they do not get any services. Could the Assistant Minister tell this House how soon that road will be constructed? It was even approved by the DDC!

**Mrs. Tett:** Mr. Deputy Speaker, Sir, I have just said that the DDC approved the murramping of that road at an initial cost of Kshs700,000.

**Mr. Deputy Speaker:** Last question, Mr. Muchiri!

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, I sympathise with the Assistant Minister. I know that she is a very hard-working lady in that Ministry. But the fact of the matter is that Nyahururu Municipal Council is not providing anything to the residents of Kiriita. There are no roads, electricity, water and schools. It is just a pocket of an area that borders Laikipia and Nyandarua. Could the Assistant Minister confirm, unless she wants the Question to be deferred, that there are any services provided to the residents of Kiriita?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, the only two services provided are the market and recreation centre.

**Mr. Muchiri:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for this House to be totally misled? There is no market in that area! The market is at Nyahururu Town and we are talking about an area that is behind a forest! There is nothing like that! Is it in order for the Assistant Minister to mislead this House?

**Mr. Deputy Speaker:** Order! Order, Mr. Muchiri! Mrs. Tett, in view of the issue raised by Mr. Muchiri, that there is no market in that area, would you like to comment or you would like to go and make further inquiries?

**Mrs. Tett:** Mr. Deputy Speaker, Sir, I do not think the hon. Member should get annoyed and lose his temper. We are doing our best. I shall investigate and give him the answer.

**Mr. Deputy Speaker:** Very well! The Question will, therefore, be deferred until next week, but only to address the issue of the market and nothing else.

*(Question deferred)*

*Question No.864*

#### REVIEW OF MAGISTRATES' SALARIES

**Mr. Sasura** asked the Minister for Justice and Constitutional Affairs:-

- (a) the last time the Government reviewed salaries of magistrates in the country; and,
- (b) what is the basic house allowance paid to a senior resident magistrate.

**The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The last time the Government reviewed the salaries of magistrates in the country was in November, 1997.

(b) The basic house allowance of a senior resident magistrate is as follows:-

- (i) Nairobi area           Kshs20,000
- (ii) Major municipalities   Kshs15,000
- (iii) Other municipalities   Kshs12,000
- (iv) Other areas            Kshs10,000

**Mr. Sasura:** Mr. Deputy Speaker, Sir, it is common knowledge that our Judiciary has been having a lot of problems as far as corruption is concerned. There appears to be a direct proportionality between the remuneration and the services rendered in the Judiciary. Is the Assistant

Minister satisfied that the review that was undertaken in 1997 was satisfactory and that our magistrates are earning enough? What he has given us are house allowances for senior resident magistrates. That means that a resident magistrate earns well below what is stipulated here.

**Mr. Githae:** Mr. Deputy Speaker, Sir, I am yet to come across any employee who is satisfied with his or her salary. In this case, we are not satisfied that the salaries the Senior Resident Magistrates are earning are adequate. It is for this reason that the Judiciary, in the year 2002, submitted to the Government new salary recommendations which are now being reviewed.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, the bottomline is that lack of proper remuneration for judges and magistrates is the cause of corruption in the Judiciary. Now, could the Assistant Minister tell this House why this report, which he is part of, because he is in the Government, has not been implemented?

**Mr. Githae:** Mr. Deputy Speaker, Sir, the fact that an employee is receiving a salary that he or she considers to be below the market rate is not a justification for engaging in corrupt practices. The main problem has been that the Judiciary has been previously considered to be part of the Civil Service. It has now been separated from the Civil Service and, therefore, as I said, in 2002, they presented to the Government new salary scales which are now being considered. If I may say so, if you compare the salaries of the judicial officers with those of the other civil servants, the former's salaries are far above those of the latter. However, the recommendations are being studied and, subject to availability of funds, there is a good case for the salaries of judicial officers being reviewed upwards.

**Dr. Wekesa:** Mr. Deputy Speaker, Sir, I want to commend the Assistant Minister for the action he has taken recently to send away judges and magistrates who have been found to be corrupt. What action is he going to take against the lawyers who we know have been corrupt and some sitting Members of Parliament who are still in practice?

**Mr. Githae:** Mr. Deputy Speaker, Sir, as far as the corrupt lawyers are concerned, the Government has conveyed its dismay, as far as they are concerned, to the Law Society of Kenya (LSK). The LSK has undertaken to conduct an investigation amongst their members so that it can be able to weed out the corrupt ones. Whether these advocates are also Members of Parliament, they still fall under the jurisdiction of the LSK and, therefore, if there is any corrupt advocate who is a sitting Member of Parliament, I think the same provision and procedure will be applied to them by the LSK.

**Mr. Sasura:** Mr. Deputy Speaker, Sir, this Assistant Minister cannot convince this House that the fact that somebody is earning a meagre salary is not a justification for corruption as such because he stood here about one or two weeks ago and said that they are going to give the Kenya Anti-Corruption Police Unit officers good remunerations so that they do not get tempted when they are investigating these cases. Could he now tell us when they are going to implement the recommendations that were given to them so that these magistrates stop asking for *chapatis* and chips *masala* when they are rendering services to *wananchi*?

**Mr. Githae:** Mr. Deputy Speaker, Sir, I reiterate that not receiving a small salary is a justification for engaging in corrupt practices. Some of the most corrupt people in this country earn big salaries and some of the most honest people in this country earn very meagre salaries. So, there is no correlation between the extent of corruption and the amount of money an employee receives.

Mr. Deputy Speaker, Sir, I said that the Director of the Anti-Corruption Commission will be adequately remunerated not to stop him from engaging in corrupt practices but because, by law, he is prohibited from engaging in any personal business. That is the reason why he will be adequately remunerated because he cannot engage in any business.

Mr. Deputy Speaker, Sir, the recommendations of the Judicial Service Commission have

been received by the Government and they are being studied. As soon as funds are available, as I have said, there is a good case for the salaries of magistrates to be increased. As soon as funds are available, those recommendations will be implemented.

*Question No.838*

COMPENSATION FOR FAMILIES  
OF PRISON WARDERS

**Mr. Deputy Speaker:** Hon. Members, as regards Mr. Gachagua's Question, the hon. Attorney-General is not around and he has requested that he be allowed to answer it next week. Mr. Gachagua is in agreement and, therefore, the Question is accordingly deferred.

*(Question deferred)*

**MINISTERIAL STATEMENTS**

**Mr. Deputy Speaker:** Now, I have two Ministerial Statements. One is by Dr. Kulundu and the other one is by Mr. Tarus.

SUSPENSION OF FOREST OFFICERS

**The Minister for Environment, Natural Resources and Wildlife** (Dr. Kulundu): Mr. Deputy Speaker, Sir, I beg to issue a Ministerial Statement on the sending of 829 forest officers on compulsory leave. The Government decided to send 829 forest officers on compulsory leave on 24th October, 2003 to pave way for effective implementation of necessary reforms in the Forest Inspection and Protection Unit. This was done with a view to re-examining the crop of officers who were deployed in the Forest Department to enable the Government retain suitably qualified officers and recruit new qualified officers with high integrity to fill the gap left behind by the forest officers who will not be re-absorbed into the Civil Service.

Mr. Deputy Speaker, Sir, the Government was forced to take this drastic action following the extensive destruction of the forest cover which currently stands at a meagre 1.7 per cent. The destruction of the forest cover was not accompanied by any re-planting programme thereby culminating in the current plantation backlog of 25,000 hectares. I would like to state that the security and protection of the country's forests has been temporarily placed under the relevant district security committees and not the DCs only. No permits, certificates or any other documents for any related activities including the movement of timber from across the borders and private firms will be issued until the Forest Department has been re-organised. The Government is already screening for the authenticity of the origin of the timber that was seized in the recent past. As soon as the exercise is concluded, the timber will be released to the rightful owners. However, the Government will confiscate the timber which will be proved to have been poached from any of the country's forests. I am aware that the Government's action of sending the forest officers on compulsory leave has affected timber business and other related activities. I want to assure this House that this situation is temporary. Normal forest-related activities will resume after reorganisation of the forest department. As I stated earlier, the re-examination of forest officers currently on compulsory leave will be done in accordance with the existing rules and regulations governing employment in the Civil Service. It is anticipated that this exercise will take no more than

21 days, beginning on 10th November, 2003.

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, although we support the preservation of our forests, quite frankly, blanket condemnation of civil servants over---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, Mr. Marende! Mr. Marende---

**Hon. Members:** Out! Out! Out!

**Mr. Marende:** Mr. Deputy Speaker, Sir, I wish to apologise.

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, we have in this country, a system where there are regulations governing the Civil Service. Disciplinary action must apply to individual officers and not to subject them to blanket condemnation.

*(Applause)*

Mr. Deputy Speaker, Sir, the procedure that the Government seems to be following these days is to send suspected officers on compulsory leave. This is not the first instance because it was also applied in the case of the procurement officers. Now the same procedure has been followed in the case of the forest officers. The point I am making here is that once you send an officer on compulsory leave, that is disciplinary action and it serves to damage the image of that officer yet you have not established the crime he or she has committed. Those who have committed a crime by allowing forests to be destroyed cannot be 800 people. It is not possible! Therefore, I would like to draw the attention of the Minister that what he did was not in accordance with the law because he made his decision on television yet this is a matter within the jurisdiction of the Public Service Commission (PSC).

*(Applause)*

The PSC must be consulted by the Permanent Secretary. That is the authorised procedure in law. I am afraid that this was not followed. In fact, the Minister sent the civil servants on compulsory leave over his announcement on television. He is a politician and under the Constitution, the President appoints his Ministers to assist him, not to manage civil servants.

*(Applause)*

**The Minister for Environment, Natural Resources and Wildlife (Dr. Kulundu):** Mr. Deputy Speaker, Sir, while I appreciate the sentiments by hon. Nyachae, I want to emphasise that this action was taken in full consultation with the PSC and the Directorate of Personnel Management (DPM). Drastic problems demand drastic answers. Our national forest cover is a pitiable 1.7 per cent and the forest destruction is so rampant and nationwide that there was no way we could assume that none of these officers was not involved in this. We are treating everybody fairly and equally. We will give them a chance to prove their innocence and I want to ask this House to give us an opportunity to recruit officers who can deliver services to wananchi.

**Mr. M.Y. Haji:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Before you stand on a point of order, it is only fair that Mr. Lesrima is given a chance.

**Mr. Lesrima:** Thank you, Mr. Deputy Speaker, Sir. I had requested for this Ministerial



Statement and whereas I appreciate the difficulties involved in managing forests in Kenya, I wanted clarifications on the Statement so far given with regard to which authority will do vetting. I am glad you are saying that these forest officers are now on compulsory leave. I believe a number of them may be innocent. I do not believe that the junior officers left behind are men and women of integrity. Also, I do not believe that the District Commissioners (DC) who are known to have a past record of forest destruction would be the right people to oversee the licensing and movement of timber. I would like the Minister to clarify, first of all, who will do the vetting, how quickly it will be done and how schools and hospitals will obtain firewood because, the way the administration is handling matters pertaining to firewood and charcoal for hospitals and schools, is not proper. They could decide not to co-operate with the neighbouring communities. How will that be done within the next one month. Again, ---

**Mr. Deputy Speaker:** Mr. Lesrima, one more clarification!

**Mr. Lesrima:** Mr. Deputy Speaker, Sir, the last clarification I am seeking is whether the junior forest officers on grade III, Job groups H or G, have the capacity to handle the business of timber which is transacted by Pan Paper Mills, Elgeyo Saw Mills, Raiply and other major timber mills? The business of timber must go on.

**Mr. Deputy Speaker:** Enough, Mr. Lesrima!

**The Minister for Environment, Natural Resources and Wildlife** (Dr. Kulundu): Mr. Deputy Speaker, Sir, I want to assure my shadow cabinet colleague that the vetting will be done by committees comprising of officers from my Ministry, officers from the PSC and the DPM. There will be three committees working concurrently.

Mr. Deputy Speaker, Sir, with regard to firewood, the DCs have been instructed to give authority to Government institutions especially schools and hospitals to harvest in the forests, in conjunction with forest guards left on duty. So, there will be no gap there. There will be continuity and they will harvest firewood on a limited scale authorised by the DCs.

**Mr. Deputy Speaker:** Minister of State, Office of the President!

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

Hon. Members, this is not question time. The Statement was given, clarifications were sought and given.

Next Statement.

#### EVICION OF PASTORALISTS FROM LAIKIPIA DISTRICT

**The Assistant Minister, Office of the President** (Mr. Tarus): Mr. Deputy Speaker, Sir, the hon. Member for Baringo East, Mr. Kamama, had sought a Ministerial Statement on the eviction of pastoralists from Laikipia District which I wish to respond to as follows:

It is true that there are pastoralists from Baringo, Samburu and Isiolo districts who have invaded private farms in Laikipia District. These migrating cattle herders have also invaded private conservancies hence interfering with community environment conservation efforts.

As a measure to safeguard private property, the District Security Committee has held several barazas asking the pastoralists to refrain from invading private farms and instead return to their home districts. Since the pastoralists have defied all efforts to return to their homes, the Security Committee has decided to push them back to their respective home districts to avoid a possible

clash with people whose farms they have forcefully invaded.

Finally, I wish to inform this House that no houses were burnt as alleged. While the Government upholds the Constitutional provision that Kenyans can live in any part of the country, it must also ensure that private property rights are respected.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, it is highly regrettable that the Assistant Minister, Office of the President, is misleading this House. If you look at the *Daily Nation* of 30th October, 2003, it is clearly stated that houses were burnt down. It was on 25th October, 2003, that hundreds of houses were burnt and yet, the owners had all the necessary documents from the Ministry of Lands and Settlement. It is very unfortunate that these people are now helpless and have nowhere to stay because of what was done under the supervision of a District Commissioner who comes from the "correct" community, and an Officer Commanding Police Division (OCPD). I can table the names of the people who own farms in that place and who have now been chased away. Their children are suffering. I want this Parliament to assist me to stop this operation which is being supervised by a DC. All leaders from Samburu, Baringo and Isiolo should participate in deciding whether these people should leave their farms or not. But those people who have documents should stay in Laikipia because they have been living there for about 30 years, and they are not ready to go; and they will not go!

**The Assistant Minister, Office of the President (Mr. Tarus):** Mr. Deputy Speaker, Sir, first of all, I want to make it very clear that this Government does not target any community. I also want to confirm that those who own property in Laikipia will not be evicted. I also want to confirm that this Government encourages consensus when dealing with inter-community relations, because we do know the lifestyle of pastoralists. I did ask the DC to confirm whether there has been any eviction and the answer was that there has been none. Over the period that this problem has arisen, the DC and the Provincial Administration on the ground have tried as much as possible to encourage the leaders to discuss and encourage the community to go back to their farms. Thank you.

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

**Mr. Deputy Speaker:** Please, listen and seek clarification if you wish.

Proceed, Mr. Leshore.

**Mr. Leshore:** Thank you, Mr. Deputy Speaker, Sir. The Assistant Minister is misleading this House. The truth is that, all the pastoralists who are living in Laikipia have bought shares from the non-resident farm owners. Like in Narok Farm, quite a number of Samburus and Pokots have bought shares, and the administration did ask them to produce their share certificates, which they burnt in the houses. The communities; namely the Kikuyu, Samburu, Pokots, Turkanas, Somalis and even the Tugens have been living harmoniously since the beginning of the year. The problem here is the DC who is misleading the Assistant Minister. Can the Assistant Minister go there himself and ask those communities to live harmoniously, because they have been living harmoniously? The DC plus the politicians from Laikipia are trying to gain political mileage out of that by chasing away the pastoralists.

**The Assistant Minister, Office of the President (Mr. Tarus):** Mr. Deputy Speaker, Sir, the Government policy is to encourage co-existence. It is not something to be planned for, it is something that has always been encouraged. With regard to the issue of share ownership of land, if I am not wrong, I am made to understand that occasionally, the pastoralists hire land in order to utilize it for grazing. It is wrong to mislead the communities living in those particular areas. If we are going to succeed, we must also cultivate respect for one another, and respect other communities also. We cannot politicise issues and incite people, and then come here and say that people want to take this particular action. The responsibility of co-existence is the function of everyone.

Thank you.

**Mr. Poghisio:** Mr. Deputy Speaker, Sir, the Minister's and the administration's actions speak so loud that we can no longer hear what they are saying here. After burning houses and forcefully evicting people, you cannot come here and talk about the Government policy any more. Who is going to listen to that? How can there be a policy about co-existence when people of certain communities are being targeted and sent home? I would like to ask the Assistant Minister not to rely on the same DC who is evicting people.

*(Applause)*

The Assistant Minister has a Government vehicle which is fuelled by the Government. I know that these things are way above the Assistant Minister who is giving this Statement; poor man!

Mr. Deputy Speaker, Sir, there are people here who should be giving this Statement, but it is not in their docket. Will the Assistant Minister go to Laikipia and confirm whether there were any houses that were burnt down, and if they were, he should intervene and save those people and their livestock?

**Mr. Deputy Speaker:** Mr. Assistant Minister, please let Mr. G.G. Kariuki seek the last clarification.

**Mr. G.G. Kariuki:** Mr. Deputy Speaker, Sir, I have listened to the hon. Members who are seeking clarifications, and they have made quite a number of allegations. First, the DC is not looking for political mileage in this matter. Second, the hon. Members are not able to tell this House who has been evicted from his own land in Laikipia. Why should they be evicted? This is the truth; there are people who have come from Baringo, Samburu and also other areas to graze their animals there. These people---

**Mr. Poghisio:** Mr. Deputy Speaker, Sir, is that a point of order?

**Mr. Deputy Speaker:** Mr. G.G. Kariuki, that is not a point of order! You are giving information. Please, seek clarification so that the Assistant Minister can deal with the matter; unless he says he is not capable.

**Mr. G.G. Kariuki:** Could the Assistant Minister confirm that no one is being evicted from his own land, except those who do not own land?

**The Assistant Minister, Office of the President (Mr. Tarus):** Mr. Deputy Speaker, Sir, first of all, I wish to oblige that I will arrange to visit this particular area in order to confirm the position on the ground. Secondly, I also wish to state that I would like all leaders from all communities facing this particular problem to avoid making inflammatory statements, because what we have noticed is that there is a tendency to blanketly refer to others as invaders and others as aggressors. These issues of inter-community relations should be left specifically to be dealt with by the Government and the appropriate Ministry so that we do not---

**Hon. Members:** When? When?

**The Assistant Minister, Office of the President (Mr. Tarus):** We should do that so that we do not create a situation where we allow suspicion to emerge.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Order! I did say that, that was the last clarification.

Proceed, Mr. ole Ntutu!

**POINTS OF ORDER**  
VIOLATION OF LOCAL GOVERNMENT  
ACT BY NAROK COUNTY COUNCIL

**Mr. ole Ntutu:** Thank you, Mr. Deputy Speaker, Sir. I rise to demand for a Ministerial Statement from the Minister for Local Government concerning an issue of great concern to Narok residents---

**Mr. Deputy Speaker:** Just a minute, Mr. ole Ntutu, since I do not see anyone from the Ministry of Local Government, I am not sure that what you are seeking will be granted.

**An hon. Member:** Mr. Ojode is here!

**An hon. Member:** Ojode *ndiye mtu wa mkono!*

**Mr. Deputy Speaker:** Very well! Proceed, Mr. ole Ntutu!

**Mr. ole Ntutu:** Mr. Deputy Speaker, Sir, after the Minister declared the Wilderness Lodges lease illegal, the Clerk to Narok County Council went ahead and handed over the Kekorok Lodge to Wilderness Lodges. I want to get a clarification from the Minister. I also want to know the Ministry's position on the issue of handing over Kekorok Lodge to Wilderness Lodges after Narok County Council had violated Section 143 of the Local Government Act, Cap.265.

**The Minister for Roads, Public Works and Housing (Mr. Raila):** Mr. Deputy Speaker, Sir, we shall convey the request from the hon. Member to the Minister concerned.

#### UNREST IN PUBLIC UNIVERSITIES

**Mr. Kingi:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Education, Science and Technology with regard to the frequent unrest, protests and riots in our public universities. You know that for many years now, this country---

**Mr. Deputy Speaker:** The Minister concerned is not here, so I will ask the Ministers present to take note of the request and inform him.

**Mr. Kingi:** Mr. Deputy Speaker, Sir, for many years, this country has witnessed many ugly incidents involving students' riots. Some of these riots have resulted in deaths and destruction of property. This year alone, it has been reported that about seven deaths have taken place in public universities, the most recent one being in Moi University, where we are told that the regular students wanted to beat up the parallel degree students. We would like to know what plans the Ministry of Education, Science and Technology has, to restore peace and order in our institutions of higher learning.

#### BILL

##### *Second Reading*

#### THE PERSONS WITH DISABILITIES BILL

*(The Minister for Gender, Sports, Culture  
and Social Services on 4.11.2003)*

*(Resumption of Debate interrupted  
on 5.11.2003)*

**Mr. Deputy Speaker:** Mr. M. Kariuki, you were on the Floor. How many minutes are remaining? Eighteen minutes!

**Mr. M. Kariuki:** Mr. Deputy Speaker, Sir, my last point before the House rose last evening

was with regard to Clause II of the Bill. I said that it is important that the definition of the term "disability" be re-examined afresh because there is an inherent contradiction in it. When you refer to people with disabilities as persons who substantially cannot carry out their day to day activities, and proceed elsewhere in the Bill to provide their right to employment, that certainly creates a problem. I hope that the Minister will look at that particular provision, in order to safeguard the rights of the physically challenged persons to employment, so that the definition becomes consistent with the right to employment.

This is the first legal framework created for persons with disabilities. It is important that as we create a new area of rights of these persons, we start with the supreme law of the land. It is important, regarding the element of discrimination, that we start with the relevant provisions of the Constitution, in particular, the provisions regarding the rights not to be discriminated against. There is no specific reference to discrimination against persons with disabilities. It would have been important in drafting this legislation, to first entrench this particular right in the Constitution in order to safeguard the physically challenged persons from discrimination. That would have been the way forward. It is also important to realise that there are several other pieces of legislation elsewhere which need to be looked into to be able to entrench the rights of the physically challenged individuals.

I have in mind the provisions of the Workmen Compensation Act, which has not been revised after many years. It provides that persons who die while in employment, can only get Kshs38,000 as compensation, at the very maximum. Compensation for persons who have become disabled by virtue of injuries sustained at their places of work is much less than Kshs38,000. It would, therefore, have been important, as we bring this Bill, to look at the Workmen Compensation Act, in order to guarantee the rights of the physically challenged in terms of adequate compensation.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, it is also important to look at other legislations like the Traffic Act. You notice that there is no provision in our Traffic Act for special parking bays for persons with disabilities. In other countries, there are clear provisions on the roads that persons with disabilities have special parking bays on the streets. In America, in particular, if any person was to park his vehicle in an area where the physically challenged persons are supposed to park, the fine is clearly written there; US\$1,000. We need to look at the Traffic Act in order to safeguard the rights of the physically challenged persons.

The National Hospital Insurance Scheme is something worth looking at. The provision relating to broadcasting and the Communications Commission of Kenya has to be looked into. Now that in this Bill we have introduced the right to sign language for those who cannot express themselves in a normal manner, those particular legislations also require appropriate amendment in order to entrench the rights of the physically challenged persons.

Yesterday, I mentioned that the Limitation of Actions Act is an important provision. It gives people the right to extend the period within which they can seek remedy in our courts. It has the word disability, but the word under the Limitations of Actions Act, Cap.22, refers to a different situation. It, in fact, refers to disability in reference to persons who have not attained the age of 18 years. If somebody was involved in a road accident and suffers mental injury, and the period within which he is supposed to seek remedy in our courts of three years expires when he is still disabled, he

will not be able to claim compensation for damages at a subsequent time. It is, therefore, important, as we brought this particular Bill, to ensure that we also modify the meaning of the word "disability" under the Limitations of Actions Act. Disability can embrace not only elements of those who are below the age of majority, but also persons who have suffered mental injury and have to seek compensation for damages after the expiry of the three-year period. In a nutshell, it is important that if this Bill will convey the rights proposed in it to the physically challenged persons, it is important that other legislations, including the Constitution, be thoroughly looked into.

Mr. Temporary Deputy Speaker, Sir, I have looked at the provisions purporting to confer rights and privileges to persons with disabilities. That is Part III of the Bill, Clause 11. Regarding the issue of legal services, this is a hollow right. There is no right whatsoever. All that the Act provides is that the Law Society of Kenya, in conjunction with the Attorney-General will have the right to make regulations regarding access to courts by way of legal aid. But there is no provision, whatsoever, in this Bill which confers an express right to persons with disabilities that they will get free legal aid in our courts. That is a serious omission. I will be proposing, at the Committee Stage, that we make it an express right for a person with disability who has suffered discrimination by virtue of his condition, to have free legal services in our courts. It is not enough to say that the Law Society of Kenya (LSK) will make regulations.

Mr. Temporary Deputy Speaker, Sir, the other point is with regard to the issue of health. Again here, there is no express right given to disabled persons that they will access our health institutions free of charge. I do recognise the fact that there are persons who have physical challenges, but they are not necessarily poor. However, there is need to make it clear in this Bill that indigent persons who suffer physical disability should be able to get free medical attention. The way in which this is worded in this Bill, leaves a lot to be desired. It gives the National Council for People with Disabilities (NCPD) power to source for funds and to facilitate the treatment of disabled persons. That is not synonymous with the right to get medical attention and access medical facilities free of charge.

Mr. Temporary Deputy Speaker, Sir, the other important right for the disabled persons is the right to access our institutions of learning. This Bill states that we are supposed to provide special facilities in all public institutions to ensure that the rights of the physically challenged persons are safeguarded. It is now public knowledge that not much is really happening in our public institutions. It is not possible under the present circumstances, unless the Government comes on board to have, for example, special toilets built by some of the primary schools where they offer free education. There is need for the Government to allocate funds to all public institutions to ensure that these special facilities required in our schools and hospitals are provided as a matter of urgency. I join hands with those who said five years is a long time for the Government to implement the construction of these facilities. In my estimation, if we have any commitment to the rights of the physically challenged persons, we could do this within a two-year period. I do hope that the Minister will facilitate this as a matter of urgency.

Mr. Temporary Deputy Speaker, Sir, it is like we are doing a favour to those who are physically challenged. We are saying here that funds will be raised through various means and that the Government will try to expand its resources and see what it can do for the physically challenged persons. The way forward, if we have any commitment whatsoever, is to have a provision for physically challenged persons in our annual Budget. If we leave it to the whims of the fund raisers and donors, then, sure enough, the rights that we are purporting to convey to the physically challenged persons will never see the light of day. I, therefore, propose that, perhaps, under Section VII of this particular Bill, we make it mandatory for the Minister for Finance to bring estimates in his annual Budget to assist the disabled persons and the institutions in which they

obtain services. That is the only guarantee that they are assured to get about their rights.

Mr. Temporary Deputy Speaker, Sir, I do also wish to mention that the functions of the NCPD which is enforced here need some measure of independence. If you look at Section VII and the provisions of Section XIV, you realize that this is a body that will be under the direct control of the Minister. At the end of the day, all their propositions, investigations and proposals will have to be handed over to the Minister. He may decide to act or not. In order to entrench these rights, it is important that the NCPD enjoys a large latitude of independence. They should be able to propose what is best, but also we need delegated powers under this particular Bill so that the NCPD can say: "Pursuant to our delegated powers, we are now making the following rules and regulations regarding the rights of the disabled people." If all we are doing is to empower the NCPD to make recommendations and look at possible safeguards against abuse of the rights of the disabled person, without giving them the crucial duties, we will not get very far. However, if we are able to say that the NCPD will have the delegated powers of this House to make rules and regulations and ensure the safeguard of the rights of the disabled persons, we will have taken a bold step towards showing our commitment towards the rights of the disabled people.

Mr. Temporary Deputy Speaker, Sir, there is quite a lot to be done in this particular Bill. However, on the whole I must say it was a bold effort, that it was brought over to this House. I am aware that, in the past, various organizations dealing with the rights of disabled persons have had to do a lot of national fund raising and they bought many buildings in different parts of the country. However, there has been absolute lack of accountability. One of the provisions that we need to empower the NCPD with is to give it regulatory power for all other related organizations dealing with the rights of the disabled persons. They should be able to oversee and co-ordinate their activities and to ensure that they give appropriate account of their expenditure in all the activities relating to the work they are doing for the physically challenged persons. If we expand the powers of the NCPD, under Section VII of the Bill, we will be able to ensure that there is some accountability for those NGOs operating in the guise of assisting disabled persons, but at the end of the day, they cannot account for their activities. This will be a great measure towards improving our governance in this matter.

Mr. Temporary Deputy Speaker, Sir, there are various things that we need to look into. A lot has been alluded to here relating to, for example, the provisions of the Physical Planning Act. If we are to ensure that all buildings have necessary facilities, then the Physical Planning Act has to be revised to ensure that it becomes mandatory for all designers, architects and all persons investing in the construction industry, to observe the rights of the disabled persons. We need special lifts and facilities where the disabled people can move freely. They need special toilets and bathroom facilities. These have to be provided. We cannot do that until the Physical Planning Act is appropriately amended and it is made mandatory that no construction will be approved unless those facilities are provided for.

Mr. Temporary Deputy Speaker, Sir, we have special schools for the blind and the dumb in this country. These schools require special facilities. It is unfortunate that majority of the physically challenged persons are from the lower ranks of our society; the poor. School fees for the disabled people is quite high because of the nature of the facilities they have to use. There are a number of these special schools in Nakuru District. Students in these schools pay not less than Kshs10,000 a term, particularly those in boarding schools because of these special facilities. Many times we rely on donors to be able to sustain the children in those particular institutions.

Mr. Temporary Deputy Speaker, Sir, now that this particular Bill has come before this House and since the Government has declared its commitment to give free primary education to Kenyans, I think that this was the appropriate moment to bring in a clear provision in this Bill to

ensure that all the special public schools are fully funded by the Government. That would ensure that the burden which has been placed on the poor parents of the disabled children will now be a matter of the past.

We know that disability can come about at birth, by accidents, out of violence, for instance when the police shoot people here and there. There are a number of people who are physically challenged. I think that we, as a society which would like to be regarded as civilised, have a duty to treat our citizens with dignity. The only way to ensure that we treat them with dignity is to take on the burden of saying that every Kenyan who is physically challenged is one of us. He or she did not get physically challenged out of choice but it was out of unfortunate circumstances. I think that the State has a duty of ensuring the welfare of all.

Mr. Speaker, Sir, I do not want to take more time than I have taken but would like to underpin the last point that hon. Mr. Muite made here, that we must appreciate that physically challenged persons have a human dignity to defend. They are one of us and essentially, it is not a matter of showing pity to them. It is a matter of showing them that they should be better than they are. That they should be part of us. We should treat them in such a manner that they feel to be part of this society. The question of discrimination as I said earlier, until and unless it is entrenched in our Constitution, we will be paying lip service to rights and dignity of the physically challenged. It should be in our Bill of rights that the physically challenged should not be discriminated against. From there, we can amend other legislations appropriately.

On that note, I beg to support.

**Mr. Leshore:** Thank you, Mr. Temporary Deputy Speaker, Sir. I think that my colleague from the other side has "stolen" most of the points I wanted to say. However, I would like to thank the Government, my colleagues and Kenyans in general for being very sympathetic towards the physically challenged persons.

I am speaking from my experience. For the last three years, I have been a physically challenged Kenyan. I have realised that there are so many challenges that face the people who care for us, and they are victims themselves.

Mr. Temporary Deputy Speaker, Sir, my colleagues who have spoken about this Bill have said that we need special care. Most of the hospitals are not accessible to the physically-challenged persons. Most of the public utilities are not accessible to the physically challenged. Before I became disabled, no disabled person could come into this Parliament, which is a public utility. We need special medical care. We also need special attention from those supporting us because for every physically challenged person, there are always two or three people who care about him or her at any place, either at home, hospital or anywhere else.

My colleague has said that once this Bill is passed and entrenched into the Constitution of Kenya, every Kenyan will know that whether one is physically challenged or not, the Constitution takes care of all of us. Mr. Temporary Deputy Speaker, Sir, the other issue I want to talk about is special medical attention. If you looked at our rehabilitation centre which is near Kenyatta National Hospital, it is below the standards of living. I wish the Minister for Health was here to ensure that that particular facility will be well equipped, the staff well-trained and even build another rehabilitation centre. What we need is to be self-independent. On the issue of employment, I agree with most of our colleagues that a certain percentage of either private or public jobs, must go to the physically-challenged people. I know that most of them are productive, they can become receptionists, they can work in industries, and even anywhere as I am now working for my people.

Mr. Temporary Deputy Speaker, Sir, I want to thank the people of Samburu East for being the first to elect a physically-challenged MP in Kenya. I also want to thank the Kenyan people in general for accepting that the physically challenged people could lead them when they elected



President Kibaki when he was on a wheelchair.

I would like to ask the Minister that once this Bill is passed, NSSF should provide the necessary facilities for the physically challenged. For instance, in the UK, they have special clauses in their national social security fund so that physically challenged people do not suffer again. They end up feeling equal with the other people.

Vehicles for the physically-challenged people must also be provided duty free. I would like to thank those charitable organisations or missionaries that have come up and build homes for the physically challenged. I would also like the Bill up to assist those charitable organisations and missionaries that have some up to assist the physically challenged people.

Mr. Temporary Deputy Speaker, Sir, the former President raised some funds for the physically challenged persons in this country, which was managed by a Fund for the physically challenged. However, none of the workers of this Fund is physically challenged. I would like to tell the NARC Government to include two-thirds of the number of trustees to be physically challenged people. I am sure that none of the directors is a physically challenged person. I know that my friend Mr. Musila is a trustee, but when I asked him one day if we have a physically challenged person as a trustee, he said "no". That was to my disappointment. I would like the present Government to see that two-thirds of the trustees should be physically-challenged people, because we know our problem and we know where we need assistance.

With those few remarks, I support the Bill.

**Mr. Musila:** Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity.

First, I would like to associate myself with the sentiments that have been expressed by the various Members who have positively contributed in supporting this Bill which I support. I also want to congratulate Mr. Leshore for the contribution which he has made. I regard him as a very courageous man because he has gone through many difficulties since he became disabled and indeed he is a good example of how people who are challenged physically can do a lot of things.

Mr. Temporary Deputy Speaker, Sir, last year, when the Committee on Defence and Foreign Affairs was going to Uganda, Mr. Leshore had just come from the hospital and as he was a Member of the Committee. I indicated to him that I thought he could not go to Uganda. He proved me wrong because he went to Uganda and we carried out the programme with him. Therefore, I want to applaud him for the courage he displayed. He is an example to all the people who are physically challenged in this country.

Mr. Temporary Deputy Speaker, Sir, let me also start by appreciating the role that has been played by individuals and organisations in the past in an attempt to improve the living conditions of the disabled people. I have in mind the Salvation Army which from time immemorial has been involved in assisting schools for the blind. This country owes a lot to the Salvation Army for the educated people who are blind. We have other organisations like the Association for the Physically Disabled of Kenya (APDK). The Vice-President and Minister for Home Affairs has steered this organisation for many years. There are other organisations, like the Association for the Deaf, which have contributed immensely to the well-being of the disabled.

Mr. Temporary Deputy Speaker, Sir, it is better late than never. The Government has finally come up with this Bill which I think will go a long way in assisting people who are physically challenged. You will recall that on 1st October, 1980, former President Moi conducted a fund raising in aid of the disabled. Also, on 8th of April, 1989, the former President conducted another Harambee. Through his efforts and that of Kenyans, a total of Kshs91.7 million was raised for the disabled. I am referring to this because yesterday when some hon. Members were making their contributions they referred to the National Fund for the Disabled of Kenya (NFDK), of which, as

Mr. Leshore has said, I have been a trustee for the last 21 years. Some hon. Members said that this Fund has done very little for the disabled. I stand here to correct that impression.

Mr. Temporary Deputy Speaker, Sir, the NFDK is a very misunderstood organisation. I believe that this organisation is run in a transparent manner. Every year, the NFDK publishes audited accounts for members of the public to see. Past and present trustees of this organisation are very prominent members of our society. For example, the first Chairman of the NFDK was Mr. Charles Njonjo. The second Chairman was Mr. Eliud Mahihu and the current Chair is Mrs. Christina Pratt Kenyatta.

Mr. Temporary Deputy Speaker, Sir, the trustees of the NFDK are also very distinguished citizens of this country. These are Mr. J.J. Nyagah, the former Minister; Mr. Nyakiamo, a former Minister; Dr. Ojiambo and Mr. Nicholas Biwott, who are Members of this House. The others are Mrs. Margaret Mwangola and the former Member, Mr. Abbas.

As I said, I have served in this Board for the last 21 years. To correct the impression that there are no disabled people in the Board, I want to say that Mrs. Sinyo, whom we all know is physically challenged, is a member of the current of Board. I am saying this just to correct the impression that the NFDK has not done much. Since 1982, when this Fund was established, it has distributed over Kshs202 million to 6,400 disabled people and to over 300 institutions.

Mr. Temporary Deputy Speaker, Sir, a lot of Kenyans question the wisdom of the Fund having invested the funds collected by the former President in buildings. The first Harambee which was held in October, 1980, raised Kshs20 million. The Board of Trustees purchased a building for Kshs25 million. Today, that building is valued at Kshs123 million. In April, 1989, the former President also raised Kshs71 million. The Board of Trustees purchased another property at a cost of Kshs125 million. Today, the total value is Kshs172.5 million, and the total value of the NFDK assets stand at Kshs295.5 million.

Mr. Temporary Deputy Speaker, Sir, the money that I have said is annually distributed to the disabled is from the rent collected. If the money that was collected in the Harambee was distributed to the disabled at that time, then there would be nothing to distribute today. So, the Fund continues to distribute funds annually and will continue to do so. The NFDK operates purely on funds from those investments. The Exchequer does not allocate any funds to the Fund.

Mr. Temporary Deputy Speaker, Sir, by enacting the law now before us, the disabled stand to benefit because they will be able to access public funds from the Exchequer. By so doing, I am sure we will be able to reach more disabled people. I believe the complaints that people make against the NFDK is simply because the money that is available for allocation is too little to cover the needs that exist in this country. I think this Bill will give legal mechanism for the co-ordination of efforts that will be aimed at assisting the disabled people.

However, there is a small problem that I would like the Minister to address, especially when we go to the Committee Stage. This is in reference to Clause 32 of the Bill that establishes the National Development Fund (NDF). As I have said, there already exists the NFDK which was legally established with a trust deed and His Excellency the President is the patron. So, the Minister may as well want to inform the House how we will have two institutions almost by the same name; the NFDK, and the NDF that is meant to be created under Section 32 of this Bill. I want to appeal to the Minister to consider providing a name that will not bring confusion to these two important institutions.

I also want the Minister to particularly clarify this matter. My understanding, and I believe that of this House, is that all the existing institutions that cater for the disabled, like the Association for the Deaf, the Association for the Physically Disabled, the NFDK and many others, will continue to exist. The body that is being created today is meant to co-ordinate the smooth functioning of all

these institutions so that they can serve the disabled of Kenya in a better way.

Mr. Temporary Deputy Speaker, Sir, I want to talk about education for the physically challenged people. Today we are talking about empowering the physically challenged. There is no way we can do that unless we provide education to the people who are physically challenged. At the moment, the Ministry of Education, Science and Technology is not doing enough, because the disabled children are at home, while those who are able are studying. I would like to propose, that in future, the Ministry of Education, Science and Technology should ensure that facilities are provided right from the pre-primary level to the university, where all people who are physically challenged are able to access education. No matter how well we mean for the disabled, and how much we want to assist them, there is no way we are going to succeed, unless we provide education to those people. This is why, from the beginning, I applauded the Salvation Army church, because they saw the need of educating blind children. The Ministry of Education, Science and Technology should have a policy that is going to assist the disabled people access education, right from childhood to university, so that their future can be bright.

Mr. Temporary Deputy Speaker, Sir, I also want to talk about the census of the people who are physically challenged. In Kenya, we have a habit of using wild figures. Like now, the Ministry says that we have three million physically challenged people in Kenya. But if you went deeper and asked the Ministry to tell you where these people are, and what kind of disabilities they have, it is just an estimation. Therefore, I propose that the Ministry carries out a thorough census to establish where these people are and what disabilities they have. I say this, because, last month I made an attempt in my constituency to meet all people with disabilities, and I was amazed to see so many people from one small area being physically challenged. I wonder whether the Ministry knows where these people are. I am calling upon the Ministry to be more serious and reach out to the disabled.

Mr. Temporary Deputy Speaker, Sir, over the weekend, we watched a very sad documentary on one of the television stations, whereby in Murang'a District, and in particular, Makuyu, the Catholic Church had gone and identified that in one village, children are being born with disabilities and the Ministry of Health has no idea that, that is going on. Does it have to take the church to go to the villages to look for people with disabilities when there are Ministries which have been given the responsibility to do this work? On that day, a very able reporter asked whether the Government was aware that in that particular village, children were being born with disabilities; almost about 50 per cent of them. What we would have expected is the Ministry to do a research and establish the cause of this. As it is, no matter how many laws we make, unless we change our attitude and know that a person with disability is not disabled because of his own free will; unless we reach out to them, we cannot go very far.

Mr. Temporary Deputy Speaker, Sir, today, it is not uncommon to see motorists almost running over people with disabilities on wheel chairs, in the streets of Nairobi. We must educate our people, that in whatever we do, people with disabilities have the right of way. When we go overseas, we find that there are even toilets reserved for the disabled. Wherever we go, there are signs of facilities for the disabled. Yesterday, one hon. Member commended Telkom Corporation, and I also want to join that hon. Member in doing so, but how many other public institutions, including the Government, have recognized the need for the disabled people to access those facilities? Three years ago, there was a move by the National Fund for the disabled, whereby a circular was written to the Ministries to recognize the needs of people with disabilities, and this is why people can at least access Government buildings because they removed the staircases.

However, that is not enough. I am calling upon the Government and the civil society to educate our people, to ensure that persons with disabilities are given due respect, and that they are

assisted in whatever way, so that they have the right of way on the road, they get basic facilities before we get them and they are assisted in every way. This way, we will be going a long way in improving the living standards of our people.

With those remarks, I beg to support.

**Mr. Boit:** Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to strongly support this Bill, because I think, the Ministry has brought it in time. I think Kenyans, particularly those who are disabled, will have reason to rejoice because if we pass this Bill, it will answer so many questions which have remained unanswered for a long time.

Mr. Temporary Deputy Speaker, Sir, I would like, particularly at this moment, to commend the Ministry of Health institutions, especially Kenyatta National Hospital, Nakuru Provincial General Hospital, the New Nyanza General Hospital in Kisumu and the Eldoret Referral Hospital for what they are doing for children with cleft palates, through Operation Smile. There are many children who are born in this country with cleft palates which leave their faces looking very bad, and in fact, some of them are considered outcasts or a bad omen. Upon birth, those children are unable to suckle their mothers' teats and are unable to eat properly.

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

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

Mr. Temporary Deputy Speaker, Sir, in fact, the parents and relatives of those children look very miserable, because if you look at those children, their faces look very bad. They have no lips, and the community looks at that family from a distance. To them, it is a bad omen. Fortunately, this operation brings back the lips of that child, and the beauty and smile of the child is brought back, and the community is able to communicate with the child. The life of that child whose face has been restored immediately changes. So, I think the act of reversing that kind of disability through operation by experts in our hospitals should be commended.

Mr. Temporary Deputy Speaker, Sir, I think the Ministry concerned should be given funds towards this cause. At the moment, Operation Smile is fund-raising through street walks and contributions from other well wishers. It is time the Ministry of Health and the Ministry of Gender, Sports, Culture and Social Services provided funds for such operations.

There is also another disability which I think should be put on record. This includes heart complications, where children are born with holes in the heart. They cannot grow and perform well in school. Even adults who develop heart diseases are unable to walk and contribute positively to their communities. I think these are people who should be included in that category. We have seen many heart operations in this country, where a lot of money is used.

Mr. Temporary Deputy Speaker, Sir, those poor little children cannot go to school. They are born to poor families and the operation costs not less than Kshs300,000 locally. That is a disability the Government should consider and provide free medical services to such patients.

We have talked about many facilities in schools which are not provided to disabled children. We are talking about communities in our villages where disabled people cannot move around effectively. In the cities, we can provide wheelchairs, lifts and other things, but in the villages, we do not have such facilities and yet, as one previous speaker said, there is even a village where disabled people are born! The civic society and the community at large should be educated about that. The Ministry concerned should be able to carry out periodical surveys and get reports from

villages, and have a record of disabled people, so that we can train them. Even the communities should be trained and given relevant information, so that they could articulate the issues concerned, so that we can communicate with the disabled people effectively.

Our traffic lights are only for those who can see. What about those who cannot hear? Traffic lights in Nairobi should have bells to ring for those who are blind, so that they can know when to cross the roads. In overseas, as somebody has mentioned, there is an alarm. But here, there are no signs to indicate to the deaf people when to cross the roads. We need to take care of those people.

Our stadia in this country do not take care of disabled people. If you go to Nyayo Stadium or the Moi International Sports Centre, Kasarani, nobody cares for those people. There are stairs and tracks for people who are able. The disabled people are not catered for. Yesterday, we heard that the total job provision for disabled should be about 10 per cent. I agree with that. That is an area where our disabled people have been marginalised for a long time. They should be given opportunities when jobs are available.

With those few remarks, I strongly support the Bill.

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill, which is long overdue. First of all, I would like to thank the Minister for bringing this Bill, which is very important to this country, and which is meant to cater for a people who have been marginalised for a long time.

Mr. Deputy Speaker, Sir, you have heard several hon. Members referring to those people in different terms. That is because of the complex situation that those people are in. Some even fear to talk to them, wave at them and even share anything with them. Others even hate and loathe them. Others sympathise with them and others love them. Some Members who have spoken have referred to them as disabled people, while others have called them physically challenged. According to the definition, there is also mental and sensories challenge. In some countries, especially in the West, they are referred to as "exceptional people", or persons with exceptionalities.

Mr. Temporary Deputy Speaker, Sir, that type of impairment is caused by various circumstances. Many of them, especially those who are physically challenged, get to that situation as a result of accidents. There are those who are disabled right from birth, or even before birth. Others experience that situation at later ages due to diseases and very many other reasons. This is not a very good condition. It is important that Kenyans, and people all over the world sympathise with disabled people. Mr. Temporary Deputy Speaker, Sir, if you look at the Bill, you will find that it does not talk about families with disabled people. It is true that a family with a disabled child goes through a lot of trauma, and is economically challenged. Sometimes, such a family does not know what to do with such a child. I propose that the Bill addresses the predicament of such families so that disabled children can be catered for right from birth. This is because we do not help such families much when we wait until their disabled children start going to school or hospital. So, families with disabled children should be offered counselling services.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Miriti! You know the rules of this House. From where I am sitting, I am getting the impression that you are reading a speech. We do not read speeches in this House, but we debate. So, could you, please, debate on the Bill and stop reading that speech?

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Mr. Temporary Deputy Speaker, Sir, this is not a speech but just points I am referring to.

**The Temporary Deputy Speaker** (Mr. Khamasi): That is my ruling!

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir. I was saying that families with disabled children should be provided with counselling services. If this is done, such families will feel that these children are wanted by the

society. These families will also realise that they are being supported by the society.

If you look at our roads, you will see that the designers did not think about people with disability. I support those hon. Members who have proposed that all architectural designs should include facilities which cater for disabled people. The blind, the deaf and the crippled face a lot of problems when they cross over a road or climb pavements. I would also like to propose that we should have special crossing points on our roads, where police should be stationed to help such people cross over.

On hospitals, most of them do not cater for disabled people. The few hospitals we have for people with disabilities attend to very few people. As a result, many disabled people stay in their homes because there are no specialists in most of our hospitals to handle their cases. To address this problem, the Government should train more medical personnel to treat disabled people.

This Bill is silent on the chairman and vice-chairman of the proposed Council. The Bill just says that the two officials will be selected as stipulated in clause 4. If you refer to this Clause, you will find that it is silent about the chairman and the vice chairman. Therefore, it is important for the Minister to explain how these two officials will be selected.

Mr. Temporary Deputy Speaker, Sir, the Bill is also silent on participation of persons with disabilities in elective posts. Although the Bill talks about civil rights, you will find that it does not have rights for disabled people when they contest for parliamentary or civic seats. Therefore, I propose that the Minister should look into this matter by including a clause in the Bill which gives people with disabilities the right to parliamentary and civic elections. The Bill should ensure that disabled people enjoy these rights.

On the rights and privileges of persons with disabilities, there are quite a number of rights which they have been denied. This includes the right to education, which should be provided by the Government. There is also a right to medical care, which has been raised by a number of hon. Members who have contributed to this Bill.

I also propose that we should include the right to providing facilities which can assist disabled people. This is because if you walk along the streets of Nairobi, you will find some disabled people crawling and others moving in all sorts of manner. I propose that such people should be provided with facilities which they can use when they are walking, eating or reading. This should also be their basic right. Disabled people should also have a right to information. This is because information is very important to these people. I would like to point out that the parents and relatives of disabled children go through a lot of trauma because of lack of information. This is because disabled people cannot reach some facilities even when they are made available.

Mr. Temporary Deputy Speaker, Sir, once again, I commend the Minister for bringing this Bill, which is very important. On the issue of funding, I think we should not create another fund, but rather incorporate the existing Fund in the Council. Also, the Council should be renamed the National Disability Council instead of the National Council for Persons with Disabilities.

Thank you.

**Mr. Magugu:** Mr. Temporary Deputy Speaker, Sir, I would like to support this Bill and add some points which I believe have been left out.

First of all, any person who is physically challenged has every right like all of us. Having spoken with many of them, I know that they do not want favours. Even in this particular House, they are not asking for favours. They are only saying that they are like other able people and their rights do not differ from ours. The rights which I claim to be mine by birth should be treated as such.

It is unfortunate that we are here talking of hundreds of thousands of Kenyans who are physically challenged, but we do not know how many they are. With the passage of this Bill, the

department concerned should conduct a census of all physically challenged people and the records treated differently. Many of them have not been taken care of by their own parents and the society.

Mr. Temporary Deputy Speaker, Sir, I do not know how effective the envisaged National Council will be. The Government should establish a new department to deal with all matters relating to physically challenged people. I believe that would be a better approach, instead of having a Council. The department will have powers to source for funds and manage them. We do not have facilities for the physically challenged, such as sporting and schooling. Right now, a lot of construction is going on and the contractors are casually developing houses without providing facilities for physically challenged people. They have been ignored by their own Government since Independence.

Mr. Temporary Deputy Speaker, Sir, I do not want to take long because many hon. Members have raised the same issues in their contribution. However, when we talk about physically challenged people, we must prioritise our policies. This is a very important issue, and it should be treated as a matter of national importance. If we do not do that automatically, it means that we are ignoring hundreds of thousands of Kenyans. So, if we appoint them to those institutions, I feel they will make more contribution than those who are not in their class. Let us have them appointed to those institutions and to organs of Government.

Mr. Temporary Deputy Speaker, Sir, I do not want to go beyond that because I believe the same points I wanted to bring before this House have been said in so many ways. However, I would be prepared to offer myself when these points which I have suggested are being implemented. I believe I have got enough contacts to take a challenge into making life better for our disabled brothers and sisters. I am capable of assisting the society.

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

**The Assistant Minister for Education, Science and Technology** (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I, too, would like to support this very important Bill. We should pass and implement it immediately. I want to commend the Ministry for bringing this very important Bill. In fact, it was overdue. However, it is better late than never.

Mr. Temporary Deputy Speaker, Sir, any Government or nation has to equally take care of all its citizens. All the citizens have equal rights. We all know that our brothers and sisters living with disabilities have been neglected to a certain margin for a long time. Most of the facilities which are used by those who are physically challenged are provided by the Non-Governmental Organisations (NGOs), or through charity. However, the Kenyan Government never took such a challenge before. So, we commend this Ministry for the move it has taken now. When development programmes are being proposed, people with disabilities should be at centre stage. I say this because, in most of our development programmes, there are no special programmes designed to promote the welfare of people living with disabilities.

Mr. Temporary Deputy Speaker, Sir, even looking at our education system, we lack enough special schools to cater for children with disabilities. The Ministry has recently decided to integrate those children living with disabilities, but who are not mentally retarded, and who keep up in the classroom, into ordinary schools. We thought that this is a good move because it will give such children confidence, and they will feel that they are not different from normal children. This is a facility that must be offered all through, so that as many of them as possible can join universities, accesses other post-school training and get jobs. They must be looked at as a special case; they must not be left to fend for themselves. We must have programmes that promote their learning.

Indeed, in the Ministry of Education, Science and Technology, under the free primary education programme, schools for children with disabilities are allocated more than double the amounts of money allocated to ordinary schools. We do so considering the fact that children with

disabilities require special teaching aids, which are much more costly than those used in ordinary schools. This is only one sector. I urge the Ministry to look even deeper into all their other needs, so that we can support these children, so that they can grow up knowing that they are as important as any other citizen in this country.

In the area of schools for the blind, the dumb and the deaf, we still have a long way to go. Through our budgets, we must start setting aside some more money for such schools.

Mr. Temporary Deputy Speaker, Sir, I would like us to have a rule requiring that all new buildings in our cities and towns reflect the needs of people living with disabilities, so that people on wheelchairs can also access offices since they need services like everybody else. Buildings should be designed such that somebody on a wheelchair can get up to sixth floor, be it with the aid of a lift or a ramp through which wheelchairs can be pushed up. Facilities at schools, in offices and all other public places should also be provided with toilets which people with disabilities can access, as is the case in other countries. Currently, the needs of people with disabilities are not taken into account by architects.

I would even go further to suggest that employers in both private and public sectors be encouraged to employ people with disabilities. I am happy to note that there are special incentives, in terms of tax waivers, for employers who will engage people with disabilities. We must promote them to get jobs. I am saying so because, more often than not, if a person with disability and a person without disability went to look for a job, even if they have attained the same level of education and scored similar points, it is likely that the person without disability will get a job before the person with disability. We must have ways of ensuring that people with disabilities get jobs. So, companies which engage people with disabilities must be rewarded in a certain way.

Mr. Temporary Deputy Speaker, Sir, we have been talking about alleviation of poverty in this country. Let me admit that people with disabilities are the poorest of the poor in society because it is very difficult for them to access employment and other development resources. For them, even to access education is very difficult. It is, therefore, important that, under our poverty reduction strategy, we have a special programme for people with disabilities.

I can see that the Ministry is proposing the creation of a fund, which I support. Certainly, the fund being proposed will not be run in the way the other fund is being run. We have seen people with disabilities camping at the gates to Parliament because either they did not know how the money was being used, or felt that it was not benefiting them. The fund should be managed in a transparent manner, and people with disabilities should have a say in identifying the priorities for them.

The fund should be used to empower people with disabilities in terms of training them in certain trades. It should not just be expended on dishing out wheelchairs. It should be used to impart skills in them as well as providing "seed money" to those who cannot access employment, to start some form of self-employment. People with disabilities have the same mental capacity as all other ordinary people, and given the opportunity, they will be able to improve their lives; they can conquer poverty and cease to be a burden to their families. They can be self-sufficient and be able to lead normal lives.

Mr. Temporary Deputy Speaker, Sir, we also have many children out there who are still hidden in houses by their families. This is because, in many communities, disability is seen as a consequence of traditional taboos which have been broken by the family, or as a result of witchcraft. Therefore, there is a need for the Ministry to conduct awareness campaigns with a view to educating communities that children with disabilities are normal like any other children, and that their condition is due to the will of God; that, it is not witchcraft which caused them to be the way they are, nor anything their parents did that caused them to be the way they are.



Mr. Temporary Deputy Speaker, Sir, people should be made to understand that anybody can be born with disabilities or become disabled long after he is born, and be encouraged to take such children to special schools which already exist, and which we intend to increase, so that they can be educated and be empowered to live a normal life. I said that there are many children with disabilities being hidden out there, because I have personally seen some, even in my constituency, and I have said to their parents: "Please, send these children to school", and they are now being sent to school. Many schools have now been integrated, and any child can be enrolled. Children with disabilities need not only go to special schools, but also to ordinary schools.

Mr. Temporary Deputy Speaker, Sir, it is a pity that in this House, there is no disabled Member. In the last Parliament, we had Mrs. Josephine Sinyo who was visually challenged, but was a very able Member of this House and contributed immensely. I would urge political parties to nominate one physically challenged man or woman. The reason for nomination is to bring people who are marginalised to Parliament. Whereas I am very happy that we got many women nominated to this Parliament, it certainly would have been good if one of them was physically challenged. A physically challenged man can also be nominated. He or she can then be here to enrich other Members as to the problems they encounter when living with disabilities. We all know how we appreciated and respected Mrs. Josephine Sinyo. She was very capable. It is important to have people with disabilities in leadership positions. They will also help to change the attitude of many Kenyans, who might think that such people do not have equal mental ability.

I would like to say something with regard to enabling those brothers and sisters to earn a living. We should make sure they have a room to trade in the informal sector. I know that there was a time when they had kiosks at a particular place. Many of them complained when they were removed from that area. I know there are reasons why people must be displaced from certain areas, but I urge the City Council to allocate them an area where they can earn a living decently without resorting to begging. They are people with dignity. Let us treat them well and give them hope for tomorrow.

Mr. Temporary Deputy Speaker, Sir, I want to strongly support this Bill and hope that, that Fund will be established very soon, so that we can start implementing the resolutions as soon as this Bill is passed. I also want to support the call to create a strong department within the Ministry, to make a catalogue of how many people are living with disability. We should know how many are blind, deaf and crippled, so that in our planning programmes, we can know what their requirements are. That is a lot of work which cannot be accomplished by a council. With those few remarks, I beg to support.

**The Minister for Planning and National Development** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill very---

**Mr. Sungu:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My eyes are not very good today, but is it in order for the hon. Minister to contribute from the Opposition Benches?

**The Temporary Deputy Speaker** (Mr. Khamasi): He is in order! That is why he caught my eye.

Proceed, Prof. Anyang'-Nyong'o!

*(Laughter)*

**The Minister for Planning and National Development** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I beg to support this Bill; and to assure this House that the entire Opposition benches are in full support of this Bill; and that they appreciate deeply the commitment of the NARC Government to work for and support people with disabilities, because these are

Kenyan citizens and the Kenyan Constitution is very clear that it does not discriminate against any Kenyan citizen on the basis of gender, colour, ethnic identity, race or physical fitness. Indeed, it is important that this Bill has been brought to this House by the Ministry of Gender, Sports, Culture and Social Services to underscore this issue.

Mr. Temporary Deputy Speaker, Sir, I also want to reassure the House that the Ministry of Planning and National Development has carried out a demographic and health survey, and this is an exercise that is done every year to update the statistics on demography and to underscore the fact that the structure and character of the Kenyan population is used effectively for planning and development purposes. At this point in time, according to the current health and demographic survey, the Government knows how many people are affected by various disabilities and, therefore, what kind of resources would be needed to implement this Bill.

Mr. Temporary Deputy Speaker, Sir, one of the areas which is extremely important and where the Government hopes to take very urgent measures is the area of physical infrastructure. As hon. Mrs Beth Mugo has just been saying, the physical infrastructure that we have inherited from the past has not been user-friendly to people with disabilities. It is only up to a few years ago, as a result of the tragedy that two Members of this House suffered, that even the physical facilities in the National Assembly were changed to be compliant with certain forms of disabilities. Those of you who remember, the walk from the left side of the House as you leave this Chamber to the gate down there did not have a ramp over which a wheelchair could be pushed until that tragedy occurred. That reconstruction was done, and now it is possible for people with disabilities to enter this House as we have seen. Even the microphone that stands there, previously, was not there because of this House itself not being sensitive that sooner or later, people with disabilities would be Members of this House. I do hope that when the House is reconstructed, it will also cater for other forms of disabilities. For example, those who are deaf or blind should be able to be elected to this House and participate effectively in the debates of the House. Mr. Temporary Deputy Speaker, Sir, if you look at our roads, for example, apart from not catering quite often effectively for walk-ways and bicycle-ways, they are least sensitive to people with disabilities. I was very ashamed when we went to the African Union (AU) Summit in Maputo and I saw how Maputo streets and roads have been constructed, to make sure that people who go on bicycles and who walk on foot are catered for, whereas, here in Nairobi, you will find that many roads and streets do not really effectively cater for pedestrians and those with bicycles, while we know that the majority of our people who use this infrastructure really are walking on foot and going on bicycles. If you go to China and India, you will also find that those who go on bicycles are catered for in the main streets in the cities and towns, and I think this is important now. Now, that is only to indicate the fact that people with disabilities have not really been thought of seriously.

In many lifts or elevators in the modern world--- If you enter a lift here, you will find that when you press to go to second or third floor, at the moment we only cater for those people who see. We do not cater for those who are blind. In many other countries, you will find that these lifts are given facilities for those who can use braille to read numbers so that blind persons also can trace the right floor they are going to. All these are issues that require resources and forward planning. So, I do think that a Bill like this, which puts in place regulations, ways and means of catering for people with disabilities, is extremely important.

Mr. Temporary Deputy Speaker, Sir, we must understand that people with disabilities have human resources that can be used very effectively by the nation. Just the other day, I came across an institution for disabled persons and that institution is actually using the hyacinth to make cards and other such products and you cannot believe that I bought a card made by a blind person, and it was one of the most beautiful cards you could come across. Now, you understand that if these people

with disabilities are using material like the hyacinth, we can, in actual fact, produce very good products for export to Africa Growth and Opportunity Act (AGOA) market using the skills of these people. Scientists have proved that when people lose certain functions in the body like eyes, ears, legs or so on, they do tend to develop other very acute skills in other areas so that blind people have a tremendous sense of hearing and smell, and they have a tremendous sense of touch. Now, those senses of hearing, smell and touch can be turned into skills for producing certain things that those of us who have eyes could not do because those of us who have eyes tend to take certain things for granted. We tend not to concentrate when we smell certain things to find out what they are because we think that the next day we should still do it. We take a lot of things for granted.

Mr. Temporary Deputy Speaker, Sir, therefore, it is important to understand that a Bill like this is not only important in making certain amenities accessible to those with disabilities, but it is also important in developing the skills and abilities of people or persons with disabilities. I liked the expression "persons with disabilities" rather than "disabled people" because the phrase "persons with disabilities" is much more accurate in expressing what happens to such persons. "Disabled" is rather disabling, and discouraging, and I think one does not choose to have a disability. A disability either happens because of past accidents or current accidents or something over which an individual has no control over.

Mr. Temporary Deputy Speaker, Sir, further, we must understand that there are certain forms of disabilities that are occurring in our society as a result of poverty, and poverty is something that we can eradicate. If we plan well and use our resources effectively, we can eradicate poverty, and we can thereby eliminate certain forms of disability. I would like here to refer to a disability which is called hydrocephalus. The problem of having a person who is hydrocephalus is a problem of poverty. When women are pregnant or are expecting babies, they need---

**Mr. Kajwang:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for Prof. Anyang'-Nyong'o to use terms which we do not understand? Can he explain to us what the term hydrocephalus, whatever it is, means?

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Kajwang. You are out of order!

**The Minister for Planning and National Development** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I was just beginning to explain and I would ask my friend, lawyer, hon. Kajwang, to be a little bit more patient. He should not be in as much a hurry as he normally is during the "Cross-fire" programme.

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, when women are expectant, they need a lot of folic acid. Folic acid is obtained from green vegetables. It is very important in the development of the foetus, particularly in the development of the head and the brain. When a woman lacks folic acid, the head of the foetus tends to develop abnormally and space is left for a lot of fluid to fill the head. A baby is, therefore, born with an abnormally big head full of a lot of fluids. This makes it very difficult for the baby to grow into an adult. Usually, they die before the age of 13 years, depending on how serious the hydrocephalus problem is. The statistics we have is that there are a lot of hydrocephalus cases in Eastern and Nyanza provinces. The problem is also prevalent in urban areas in the so-called slums, which I would better call "poor income neighbourhoods" like Kibera.

What normally happens is that women do not tend to access green vegetables, contrary to what we think. When I was growing up, vegetables, what we call *alot*, were the most accessible form of nutrition. Therefore, we had a lot of access to vegetables as well as cereals. We ate very little of meat because it was only eaten when visitors were around or when somebody died or when the in-laws visited your home. These were very rare incidences when I was growing up. In-laws only visited your home when somebody got married or when you were marrying. That happened very rarely. I attended the first funeral when I was nine years old. That means that between the age of one and nine, nobody died in my village.

*(Laughter)*

So, the possibility of eating meat was rather scarce. But meat is not really good for human-beings. Human-beings should rarely eat meat. They should eat vegetables, fruits, tubers and so on, or white meat such as chicken, fish and insects. That is why the Chinese eat almost everything.

**The Assistant Minister for Education, Science and Technology** (Mrs. Mugo): Snakes too.

**The Minister for National Planning and Development** (Prof. Anyang'-Nyong'o): Yes, even snakes. That is actually white meat, which is very good, and that is why the Chinese are very healthy. In Luoland, we used to eat vegetables, tubers and fruits with very little meat, and people grew tall, lanky and very handsome, like my friend, hon. Peter Odoyo.

*(Laughter)*

**The Assistant Minister for Labour and Human Resource Development** (Mr. Odoyo): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Anyang'-Nyong'o to recognise, in this House, my capabilities, potentials and gifts that have been given to me by God? Is it not contrary to parliamentary procedure that he should divert from the main topic, which is to tell how he managed to become a Professor through eating---

*(Laughter)*

**The Temporary Deputy Speaker** (Mr. Khamasi): Prof. Anyang'-Nyong'o was actually complimenting you!

**The Minister for Planning and National Development** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, hon. Odoyo is very clever. He decided to capitalise on my compliments to him. I am quite sure that he was almost referring to his other proclivities, which I will not go into.

Nonetheless, because of the good diet that my people ate in those days, they used to grow tall, lean and very handsome. Now that people are eating a lot of meat, even the physical structure of people is changing. They are short, stout, fat and so on, going to the other side of ugliness. But that is a different story. I was talking about hydrocephalus. If, indeed, women have access to green vegetables and get a lot of folic acid, then they will reproduce healthy children. However, if there is lack of folic acid, the tendency for hydrocephalus cases to multiply is greater.

Kenyatta National Hospital is receiving hydrocephalus cases at the rate of five children a day. St. James Hospital, which is on the road to Jomo Kenyatta International Airport (JKIA), is receiving about three cases of hydrocephalus children today, and this is very high. In my own constituency, I came across an 11-year old boy who is hydrocephalous, but if you look at him, he

looks like an eight-year old boy because his head is big and has stunted the growth of the child. He is an extremely brilliant young boy. We brought him to St. James Hospital to try and see how the condition can be corrected. But because he is now older, it will take longer to do the necessary surgery in order to correct the deformity. The whole problem emanates from poverty and nothing else; the inability of mothers to have access to green vegetables, and hence, folic acid to aid in the development of a healthy child.

Therefore, Mr. Temporary Deputy Speaker, Sir, the issue of persons with disability is also an issue of poverty. Our struggle and commitment to earn an economy which can eradicate poverty is extremely important in dealing with several issues. That is why, in the current Economic Strategy for Wealth and Employment Creation (ERSEWC), we have targeted marginal communities and societies as an entry point in fighting poverty.

Let me add another thing. We have done a mapping survey which we launched recently, and the current statistics indicate that the highest instances of poverty at this point in time are in North Eastern Province (NEP), followed by Nyanza Province in terms of poverty incidence. If you are to sample households, you will get a higher concentration of households in NEP and Nyanza Province in terms of poverty. What is interesting is that when you are looking at schooling statistics, Nyanza and Central Province have the highest statistics. Therefore, there is a contradiction whereby schooling is high in a place like Nyanza Province, and instances of poverty are also very high. That means that we are not correcting poverty by investing in schooling in a place like Nyanza Province. So, putting all our money in schooling may not be the solution to dealing with poverty.

If poverty is also associated with persons with disability, there must be a double-pronged approach to poverty reduction and, therefore, to avoiding such things. This is one of the reasons why a Bill like this is extremely important. I noticed in the Order Paper that we shall soon be discussing the ERSEWC; I do not like to forestall the debate, but only to underscore the relevance or the correlation between poverty and incidence of persons with disabilities.

Mr. Temporary Deputy Speaker, Sir, I would like to make one last point which is extremely important. If we do, indeed, recognize, as my dear friend, Mrs. Mugo, was saying, that the potential that we have in people with disability means that they should also be given access to certain facilities, one of these facilities, I would say, is access to financial resources, particularly credit. When we talk about access to financial facilities like banks, credit facilities and others, quite often, they also discriminate against people with disabilities. If somebody is already disabled and comes to ask for a loan or credit to develop something, which is the only area in which he has the skills, like the blind people I found in this institution making very beautiful cards, we should help him. Now, to begin subjecting them to the normal demands of banks; that they must have title deeds and whatnot, is actually being unfair because, in the first place, we must recognize that they have a disability which is not of their choice. Therefore, the criteria for having access to credit must be different for them. Their skills must be their only collateral because that is what they have.

Mr. Temporary Deputy Speaker, Sir, we need to have laws and regulations that recognise that the use of individual skills in the making of wealth must also be promoted by user-friendly regulations in financial institutions. I would like to encourage ourselves to think seriously in the process of economy recovery and also, as we go towards the Investment Conference, to develop certain financial instruments that would empower people with disabilities, so that they can use their skills and invest them for purposes of production and wealth creation.

With those few remarks, I beg to support.

**Mr. J.M. Mutiso:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to the debate on this Bill. At the outset, I would like to support the Persons with Disabilities Bill, 2003.

I am very glad that we shall have a policy framework to regulate the rights of persons with disabilities. In the past, persons with disabilities have been used by able-bodied persons for their own interests. We know that since we did not have an institutional framework to regulate the rights of persons with disabilities, many Non-Governmental Organisations (NGOs) took advantage of persons with disabilities. If you look at the statistics of flow of financial assistance to persons with disabilities, be they blind, lame or dumb, from foreign countries, you will find that it has been enormous. Indeed, it is estimated that about US\$1 billion is channelled to this country to be used by institutions which in one way or another deal with persons with disabilities. Therefore, this is a timely Bill and needs to be supported. I would like to make brief comments as far as this Bill is concerned.

Mr. Temporary Deputy Speaker, Sir, the able Prof. Anyang'-Nyong'o has alluded to a very important issue pertaining to the empowerment of persons with disabilities. Time and again, persons with disabilities have been subjected to the same treatment with able-bodied persons who can engage in activities like investments and other jobs. I support the sentiment that financial institutions should give financial relief to persons with disabilities instead of looking at them as not credit worthy persons when it comes to advancing them financial support.

Another area which is very important is the licensing policy. There is a provision in the Trade Licensing Act to give exemption to persons with disabilities. We recognise the fact that many district trade officers were retrenched in 1998. Therefore, you will find that persons with disabilities have to move from their districts to big cities like Nairobi, Mombasa or Kisumu to acquire trade licences exemption. Therefore, now that we will have the National Council for Persons with Disabilities, we should try to articulate this policy which has become defunct by virtue of the Ministry of Trade being disempowered.

I would like also to comment on a very important aspect of the Bill; that is Part VIII, which pertains to offences and penalties. I have strong reservations for Section 45(I), which pertains to negligence by doctors. I do not wish to challenge the wisdom of the drafters of this Bill, but I believe that this august House has the mandate to reconcile some of the lacunas which may be inherent in such Bills. Section 45(I), which pertains to negligence by doctors, is contradictory and negative. It states:-

"Any person who being a doctor negligently causes a disability to a patient is guilty of an offence and liable on conviction, to a fine not exceeding Kshs20,000 or to imprisonment for a term not exceeding one year or to both the fine and imprisonment".

This penalty is very light. We recognise that under our Penal Code, we have certain provisions which deal with professional negligence. We understand the fact that because of the economic pressures in our economy, most of the doctors have thrown professional ethics through the window. They have commercialised their activities to make maximum profits out of patients. I will bring an amendment to this section or to delete it altogether, such that if a doctor causes a person to have disability, he should be liable to punishment under the Penal Code, and also under the civil liability provisions. For example, a patient went to see a private doctor suffering from a simple stomach problem, maybe, constipation, but because of the doctor's motivation to make money from the patient, he recommended the patient for an operation, which was not necessary. Incidentally, the patient died in the operating room. The penalty for such a doctor who carried out an operation on a patient - he was an engineer by profession - with a profit motivation is only Kshs20,00 or one year's imprisonment. In this case, the patient died. However, suppose he was permanently disabled, what would have happened?

**QUORUM**

**Dr. Rutto:** On a point of order, Mr. Temporary Deputy Speaker, Sir. There is no quorum in the House.

**The Temporary Deputy Speaker** (Mr. Khamasi): Yes, there is no quorum. Ring the Division Bell.

*(The Division Bell was rung)*

#### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Khamasi): Hon. Members, due to lack of quorum, it is necessary that we adjourn. The House is, therefore, adjourned until Tuesday, 11th November, 2003, at 2.30 p.m. The House rose at 6.10 p.m.