

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 20th November, 2003

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### TIMELY SUBMISSION OF PROPOSED AMENDMENTS TO BILLS

**Mr. Speaker:** For the information of this House, I would like hon. Members to bring their amendments to any Bill in good time, but not to do so five minutes before the Bell, rings so that we can prepare these things well in advance.

*(Several hon. Lady Members entered  
the Chamber carrying their handbags)*

*(Applause)*

### POINT OF ORDER

#### CARRYING OF HANDBAGS INTO THE CHAMBER

**Mr. Wanjala:** On a point of Order, Mr. Speaker, Sir. You realize that, although I sympathize with ladies because they do not have coats like ours where they can keep their properties. Today, they have come in with their handbags. I do not know whether it is in order for us to sit with them without knowing what they are carrying in those handbags!

*(Laughter)*

**Mr. Speaker:** Order! What are you saying, Mr. Wanjala?

**Mr. Wanjala:** Mr. Speaker, Sir, I am bringing to your attention the fact that although I sympathize with ladies because they do not have coats like ours where they can keep their belongings like handkerchiefs, today they have come into the Chamber with their handbags. Is it in order for them to bring in their handbags despite the fact that we do not know what they are carrying in those handbags especially considering the fact that they might be carrying offensive weapons? Some of them are Ministers and they might be carrying pistols in those handbags!

*(Applause)*

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

**Mr. Speaker:** Order! Order! Order, Members! Order! I think we must understand that there are rules to be obeyed, and if rules have to be changed, they must be changed in an orderly fashion.

*(Applause)*

That is the right thing to do. I do not expect the culture of defiance of rules to be extended to this House. I am sure that if hon. Members, ladies included, would like any rule in our books to be changed, they are at liberty to forward the same for deliberation by this House. I think that is what I should say. I expect hon. Members to comply with the rules of this House.

**The Assistant Minister for Education, Science and Technology** (Mrs. Mugo): On a point of order, Mr. Speaker, Sir. We have no intention of defying the rules or your orders, and we shall abide by your order. But we would like it to be noted in this House that the process of changing the rules has taken very long because we have been requesting that we should be allowed to carry our handbags into the Chamber.

Mr. Speaker, Sir, a handbag is part of a woman's dress; and coming into the House without our bags means that we are half-dressed. Many times we have had to walk out just to get a pen, our glasses; or if you have a cold, just to get a Kleenex; and that disrupts our business. We would like this House to note that there is a lot of gender insensitivity. That Prayer inscribed at the entrance to the Chamber alone reads as follows:-

"For the Welfare of Society and the Just Government of Men"

The prayer leaves women out. So, we shall abide by your order. But we appreciate that very soon the Standing Orders Committee and the Parliamentary Service Commission (PSC) will initiate the necessary action to make this House gender-sensitive.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Members! Order! Order, hon. Members! This has absolutely nothing to do with male or female! Those of you who have taken the trouble to read the proceedings of this House would even recall that the founder President of this country at one stage came to this House with a fly-whisk, which everybody in this country and in history remembered as part of him. An objection having been taken by the House that he was carrying a dangerous weapon, he was ordered by the House to take away the fly-whisk.

Now, I have had occasion to discuss with the lady hon. Members this whole issue of the handbags. They know exactly at what stage we left; which was that Parliament being in the process of acquiring scanning machines to ensure that those who are entering these premises and the Chamber would not be in possession of any dangerous weapon, that would make it possible for even their handbags to go through the scan in order to ensure that they are safe inside. Only then would they be allowed to come into the Chamber with their handbags. That was the position. I do not understand whether that position has since changed, because if it has changed, the hon. Lady Members have not notified the Speaker of any such change.

*(Applause)*

As I have always said, we are hon. Members and we are bound by our honour. So, I expect the hon. Ladies to also abide by their honourable discussion with the Chair until the scanners arrive. I believe they will be arriving very soon. As for the inscriptions there, hon. Members know that we are completely changing this Chamber. You know it. You know we have voted money for it. I have said it from this Chair that, very soon, we are going to change even the very configuration of this

Chamber. That is the time you will come in with those things. So, hon. Members, let us understand; let us not be unnecessarily be confrontational. Hon. Ladies, please, abide by what we discussed, leave your bags safely where you normally leave them and, very soon, you will be able to come in with them when everybody is sure they are safe. I have absolutely nothing against the handbags. I know nothing of what is there. They could be perfectly innocent, but they could also conceal very dangerous weapons.

*(Laughter)*

Order! We should not spend a lot of our valuable time on this! Hon. Members, I will not take the necessary action. I will simply ask you, on your honour, to abide by what we had decided and keep those things out.

**The Minister for Water Resources Management and Development** (Ms. Karua): Mr. Speaker, Sir, I appreciate the sensitivity of the Chair. The point we are trying to make has already been made. I want to ask you to go further and protect not just the hon. Ladies, but all the women in this country by ensuring that the language used in this House is not disparaging to any one gender.

We will abide by your ruling, but we also want it to be known that the pockets in the suits of our male colleagues can also be conveyers of dangerous weapons. We are asking for equal treatment.

Thank you, and we shall abide by your ruling.

*(Applause)*

**Mr. Speaker:** Order! May I thank the hon. Ladies for being very respectful to the Chair. May I further say that all of us, as hon. Members, are capable---

*(A mobile phone rang)*

Who is that? Order! May I thank the hon. Ladies, but, at the same time, tell the hon. Gentlemen that, in fact, a complaint has reached me that sometimes the officers in charge of security here are apprehensive that some of you may be coming to the Chamber in possession of dangerous weapons. So, will you too ensure that, in the intervening period, everybody comes here with empty pockets? I thank the hon. Ladies. You may now withdraw!

*(The hon. Ladies withdrew from the Chamber)*

## ORAL ANSWERS TO QUESTIONS

*Question No.855*

### CONSTRUCTION OF MALINDI-GARISSA ROAD

**Mr. Kofa** asked the Minister for Roads, Public Works and Housing when the stalled construction works on Malindi-Garissa Road will commence.

**The Assistant Minister for Roads, Public Works and Housing** (Eng. Toro): Mr. Speaker, Sir, before I answer the Question, I would like to congratulate hon. Members-elect, hon. Nakitare of Saboti Constituency and hon. ole Metito of Kajiado South Constituency for being elected.

*(Applause)*

**Mr. Speaker:** Order! Eng. Toro, you understand how hon. Members are introduced to this House. You must understand that you do not speak for this House. So, relax!

**The Assistant Minister for Roads, Public Works and Housing** (Eng. Toro): Mr. Speaker, Sir, I am relaxed.

However, having said that, I beg to reply.

The construction works on Malindi-Garissa Road were carried out in various sections through Force Account by the National Youth Service and contract through financial assistance from Overseas Economic Co-operation Fund (OECF) of Japan between October 1998 and March 2000.

I am aware that construction works on Malindi-Garsen-Hola Road stalled due to exhaustion of funds and expiry of credit. My Ministry is currently seeking alternative funding arrangements to have the road in question completed.

**Mr. Kofa:** Mr. Speaker, Sir, the Assistant Minister has talked of the road being divided into various sections. Could he point out these sections and how much money each section was allocated?

**Eng. Toro:** Mr. Speaker, Sir, the road was divided into three sections. Section A, Garissa to Hola, which is 130 kilometres long. Section B, Hola to Garsen, which is 93.9 kilometres long and Section C, Malindi to Garsen, which is 104.6 kilometres long. The construction works for Section A are being undertaken by the National Youth Service through Force Account. At the moment, 125 kilometres out of 130 kilometres are complete.

Sections B and C were awarded to China Road and Bridge Corporation of Kenya in 1995 and construction works commenced in 1998. By the time the credit was exhausted, a total sum of Kshs2,131,402,622 was paid to the contractor and the amount certified was Kshs2,243,279,091.65. At the time the construction works were terminated by the employer, 73.9 kilometres were left undone.

**Mr. Wario:** Mr. Speaker, Sir, the Assistant Minister says 73.9 kilometres of that road were not tarmacked despite the fact that the contractor was paid in full. Why did they pay the contractor when this long stretch of road was not tarmacked?

**Eng. Toro:** Mr. Speaker, Sir, as I said, when the credit was exhausted and the Japanese Government could not give more money, this contract had to be terminated. Maybe, the reason why the contractor was paid in full was because of the variation orders which exhausted the credit. As I said, the Malindi-Garissa Road is one of the most important links to the corridors of East Africa. Therefore, it is programmed for donor support. In April this year, the Development Partners Consultative (DPC) meeting, held in Arusha, agreed to seek funds to complete the 73.9 kilometres section of the road.

**Mr. Speaker:** Very well. Next Question!

**Mr. Kofa:** Mr. Speaker, Sir, I would like to ask the last question!

**Mr. Speaker:** I am sorry, Mr. Kofa! We have taken more time on other issues. Now, we have to move on. Next Question, Prof. Olweny!

*Question No.928*

REPAIR OF KISUMU-MIWANI-CHEMELIL ROAD

**Prof. Olweny** asked the Minister for Roads, Public Works and Housing:-

(a) if he is aware that Kisumu-Miwani-Chemelil Road has a deep gully near Oroba Primary School;

(b) if he is further aware that a bridge near Chemelil is badly damaged and poses grave danger to motorists; and,

(c) what urgent measures he is taking to repair the damaged bridge.

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

(a) I am aware that Kisumu-Miwani-Chemelil Road is in bad condition and requires to be repaired.

(b) I am also aware that Chepsweta Bridge near Chemelil is damaged.

(c) The Ministry has budgeted Kshs3,200,000 and another Kshs1 million for the repair of Road C34 and Chepsweta Bridge respectively during this financial year.

**Prof. Olweny:** Mr. Speaker, Sir, the Assistant Minister did not answer part "a" of the Question. Is he aware of a deep gully near Oroba Primary School?

**Eng. Toro:** Mr. Speaker, Sir, I am aware. That is why I have stated the amount of money that has been allocated to repair this road.

**Mr. Sambu:** Mr. Speaker, Sir, this road was repaired in the recent past. Unfortunately, immediately the contractor finished repairing it, it started developing gulleys. That was very poor workmanship. Could the Government surcharge this contractor and other contractors who have done very shoddy jobs on our roads?

**Eng. Toro:** Mr. Speaker, Sir, we are devising ways and means of dealing with those contractors who have done shoddy work in the past. As you are all aware, we found those roads in that condition. At the moment, we are concentrating on what we want to do and not very much on what was done in the past.

**Mr. Sungu:** Mr. Speaker, Sir, this road actually passes just outside my doorstep. The Ministry spent Kshs250 million to tarmack this road. However, it took less than six months for it to develop potholes. The Kshs3 million allocated for its repair is not enough. What I envisage is that we will use murrum to repair the tarmack on this road. This is like repairing a piece of cloth with paper. Could the Assistant Minister undertake to allocate more money to repair this road? It is within an agricultural zone and people are suffering.

**Eng. Toro:** Mr. Speaker, Sir, 90 per cent of the roads that were done in the past were done in a very shoddy manner. There is very little we can do. We can only distribute the little resources we have to as many of those roads as possible, so that we can, at least, make them motorable as we look for a long lasting solution.

**Mr. Omamba:** Mr. Speaker, Sir, there is a road with a similar problem in my constituency. A bridge was swept away by the *El Nino* rains. It has now collapsed. Could the Assistant Minister do something about it?

**Eng. Toro:** Mr. Speaker, Sir, I am completely lost because I do not know the road the hon. Member is talking about. I wish the hon. Member could put a Question so that we look into the problem.

**Mr. Speaker:** Very well. Next Question, Mr. Dahir!

*Question No.893*

LIVESTOCK OFFICERS FOR GARISSA DISTRICT

**Mr. Dahir** asked the Minister for Livestock and Fisheries Development what action he is taking to post enough livestock officers to Garissa District.

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

(a) Arising from the Government embargo on staff recruitment, the voluntary early retirement scheme, the rationalisation and staff right-sizing measures of the 1980s and the 1990s and natural attrition, staff shortages in various cadres have occurred with a net effect of creating staffing gaps and affecting delivery of services.

To address this problem, discussions are under way with the Directorate of Personnel Management (DPM) with a view to obtaining authority to recruit officers to fill the vacant posts. Upon approval, and necessary authorisation by the DPM, the Ministry will recruit and post sufficient number of officers to Garissa District and all other parts of the country.

**Mr. Dahir:** Mr. Speaker, Sir, as much as I appreciate the answer given by the Minister, could he be more specific and state exactly when the officers will be posted? As we are all aware, the mainstay of our economy is livestock farming. At the moment, there are no livestock officers in Garissa District.

**Mr. Munyao:** Mr. Speaker, Sir, I would like to assure the hon. Member that my Ministry will make sure there are enough livestock officers in Garissa District and other areas of the country. The Government has negotiated for the markets where our people can sell their animals. Therefore, we have requested the DPM to allow us employ more livestock officers.

**Mr. Shaaban:** Mr. Speaker, Sir, is he aware that the Ministry stopped training livestock officers a long time ago? The few livestock officers in the service are about to retire. What is he doing to retrain new officers so that we have a sufficient officers to provide services to our people? If he is granted permission by the DPM, he will not have enough officers to employ because they are not there.

**Mr. Munyao:** Mr. Speaker, Sir, on the contrary, we have got so many trained officers. All the branches of the Animal Husbandry and Insemination Technology Institute (AHITI) in this country are producing so many trained personnel. We are only waiting for the authority to engage them. There are so many Kenyans who are qualified and ready to do the job.

**Mr. Mganga:** Mr. Speaker, Sir, the Minister is totally misleading this House on this matter. First, there was nothing like voluntary early retirement scheme or staff rationalisation in the 1980s. The first exercise took place from September, 1983. It was undertaken because the Civil Service was bloated. It was aimed at making sure that we have adequate staff for the available jobs. Therefore, this could not lead to the shortage of staff in any Ministry. Is he in order to say that now they are making arrangements with DPM to authorise them to fill the vacancies which were created as a result of the early retirement, yet, the whole aim was supposed to be cost containment and to make sure there was the right staff for the right jobs from the beginning?

**Mr. Munyao:** Mr. Speaker, Sir, it is so difficult to understand who is right and who is not. When I say 1980s and 1990s, the hon. Member must know that 1993 is included in the 1990s. Therefore, I think I was very clear. We have taken up the matter with the right office. There are some individuals from his own clan who retired voluntarily because the terms of compensation were fairly good. People wanted to invest while they were still young. It is only here in Parliament where people do not retire voluntarily to invest on what they have earned.

*Question No.895*

MEDICAL FACILITIES FOR MATUNDU

## HEALTH CENTRE

**Mr. Were** asked the Minister for Health:-

- (a) if she is aware that Matundu Health Centre lacks medical facilities to cater for maternity cases;
- (b) if she could provide an ambulance to the health centre; and,
- (c) if she could consider upgrading the centre to a sub-district hospital to cater for the large population around.

**Mr. Speaker:** Is the Minister for Health not here? We shall come back to this Question later.

*Question No.902*

## ELECTRIFICATION OF COFFEE FACTORIES

**Mr. J.M. Mutiso** asked the Minister for Energy:-

- (a) how much money was initially earmarked for electrification of coffee factories countrywide under the funding programme by the European Union;
- (b) if he could list all the factories which benefited from the programme; and,
- (c) what happened to the electrification of Kithaugathi, Kwalongo, and Upete Coffee Factories in Makueni District.

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

(a) A total of Kshs375 million was earmarked for the electrification of coffee factories under the following programme from the European Union.

(b) A total of 57 coffee factories benefited from the programme as indicated in Annex I.

(c) Kithaugathi, Kwalongo and Upete factories in Makueni District were not among the factories earmarked for funding under funding programme by the European Union.

**Mr. J.M. Mutiso:** Mr. Speaker, Sir, I would like to ask the Assistant Minister what criteria was used to select the 57 coffee factories.

**Mr. Kiunjuri:** Mr. Speaker, Sir, most of these funds were given out by donors like the Spanish and the French Governments. They had dictated the areas that they wanted the funds to go to. At the same time, it is true that there were some irregularities in pointing out the areas that were to benefit. I would also admit that parts of eastern Kenya, like Ukambani, were discriminated against.

We are correcting this irregularity and we will make sure that something is done about those parts that never benefited from these funds.

**Mr. Wambora:** Mr. Speaker, Sir, we are aware that the Ministry is preparing a schedule of the factories which are going to benefit from the STABEX Funds in this financial year. Could the Assistant Minister table the list of the factories which are scheduled to benefit from these funds?

**Mr. Kiunjuri:** You heard that the Member is aware that we are preparing a list. We cannot table a list of what we have not completed. However, I want to alert the Member that, when the list is complete, we will have considered those areas which had not benefited. Those who want the list can come to our offices and we shall give them the list.

**Mr. Mwenje:** Could the Assistant Minister table the ones that benefited and not the ones that they are preparing and the criteria they used to arrive at that?

**Mr. Kiunjuri:** Mr. Speaker, Sir, you very well know that this work was done last year and in the previous years, and the NARC Government was not responsible. However, I am going to

table the list of those that benefited and assure this House that the NARC Government will not discriminate against any area. We shall distribute the funds equally to the whole nation. I now table the list of those that benefited.

*Question No.929*

PURCHASE OF PLOTS BY KPLC

**Mr. Weya** asked the Minister for Energy:-

- (a) under what circumstances KPLC purchased plots No.L.R.No.209/12119 on Mombasa Road and plot L.R.No.17/19/1 Kiambu (Kitusuru) 17/111; and,
- (b) which lawyers handled the transaction.

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, I beg to seek the indulgence of the House. I received an answer that was not satisfactory and I want to request the hon. Member to give us time to come up with a satisfactory answer. **Mr. Speaker:** How long would you require?

**The Assistant Minister for Energy** (Mr. Kiunjuri): Mr. Speaker, Sir, until next week Wednesday.

**Mr. Speaker:** Is that okay with you Mr. Weya?

**Mr. Weya:** Mr. Speaker, Sir, I do not know why it has taken the Assistant Minister so long to answer this Question yet, they did the transaction in a very short time. **Mr. Speaker:** Well, try to understand his position. He says he is not properly equipped. Can we have him answer it on Thursday next week?

**Mr. Weya:** Fair enough, Mr. Speaker, Sir.

*(Question deferred)*

*Question No.594*

AMOUNT OF REVENUE GENERATED FROM  
SPECIAL RATES TOURISTS

**Mr. Ngozi** asked the Minister Tourism and Information:-

- (a) how much revenue is generated from the tourists who visit the country through the special rates organised by tour operators abroad; and,
- (b) who oversees these negotiations abroad to ensure that the rates agreed upon apply locally.

**Mr. Speaker:** The hon. Minister has asked that the Question be deferred because he is engaged somewhere else.

**Mr. Ngozi:** Mr. Speaker, Sir, this Question has been deferred before and today is the third time. When is it going to be answered?

**Mr. Speaker:** I am sorry. Maybe, I should just say that the Minister should come here on Tuesday.

**Mr. Ngozi:** Mr. Speaker, Sir, thank you.

**Mr. Speaker:** Very well, that Question is deferred.

*(Question deferred)*

*Question No.551*



COMPENSATION FOR TRAFFIC  
ACCIDENT VICTIMS

**Dr. Ali** asked the Attorney General:-

(a) if he is aware that Messrs Khadija A. Abdirahman, Saidia Hassan and Safi Hassan Abikar were involved in an accident while travelling by motor vehicle registration No.GK.Z224, A Nissan lorry belonging to Kenya Police and the matter reported vide OB No.10/2001 Ob 7 dated 31st May, 2001 at Isiolo; and,

(b) what plans he has in place to compensate the injured individuals.

**The Assistant Minister For Justice and Constitutional Affairs** (Mr. Githae): Mr. Speaker, Sir, this Question was subsequently sent to the Office of the President because the matter had not been reported to the Attorney-General. Now that they have brought the file to the Attorney-General's Office, he is asking for the indulgence of the House so that he can answer it sometime next week, because the file has now been sent to him from the Office of the President.

**Mr. Speaker:** Could we hear your reaction, Dr. Ali?

**Dr. Ali:** Mr. Speaker, Sir, the Assistant Minister is misleading this House. I have letters which were written from the Attorney-General's Chambers in July this year, responding to this allegation.

Last week, I asked the same Question and was told that it had been sent to the Office of the President. I then got an answer that it had been forwarded to the Attorney-General's Office. Mr. Githae, could you just say that you are not aware of the case and that you will do the job next week? I will accept that! But, do not mislead the House!

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): Mr. Speaker, Sir, that is why I asked for the indulgence of the House, so that we can answer the Question next week, as the file has just been taken to the Attorney-General's Office from the Office of the President.

**Dr. Ali:** Mr. Speaker, Sir, I was talking to the Clerk. I have letters here which were written by Mr. Mwangi Njoroge of the Litigation Council for the Attorney-General, in July this year. I have another one written by Mr. D. Onyango, District Chief Litigation Council, for the Attorney-General, in April, 2002, while the Assistant Minister is telling me that the file has just come from the Office of the President. The letters came from the AG's Office in the year 2002. Is the Assistant Minister not misleading this House? Is he in order?

**Mr. Speaker:** Well, he cannot be in order if that is the position. But does that help us in answering the substance? What will you do about the substantive Question?

**The Assistant Minister for Justice and Constitutional Affairs** (Mr. Githae): I will answer it on Tuesday.

**Mr. Speaker:** No! Tuesday is not a good day for you; it is a public holiday. We shall have it on Wednesday next week. Therefore, the Question is deferred until Thursday next week.

*(Question deferred)*

*Question No.895*

MEDICAL FACILITIES FOR MATUNDU  
HEALTH CENTRE

**Mr. Were** asked the Minister for Health:-

- (a) if she is aware that Matundu Health Centre lacks medical facilities to cater for maternity cases;
- (b) if she could provide an ambulance to the health centre; and,
- (c) if she could consider upgrading the centre to a sub-district hospital to cater for the large population.

**Mr. Speaker:** I am sorry, Mr. Were, the Minister is not present.

**Mr. Sungu:** On a point of order, Mr. Speaker, Sir. Whenever Members are absent, they stand to lose their Questions. It is most unkind and unfair for Ministers to be absent. There is the Leader of Government Business or some other Ministers who can take care of those matters. There is a precedent set in this House; that the Vice-President has answered several Questions here on behalf of other Ministers when they are not present. Could that be done now?

**Mr. N. Nyagah:** Mr. Speaker, Sir, may I seek the indulgence of the Chair, to excuse the Minister for Health, because she and her Assistant Minister are both out of the country. The answer that came through Parliament is not signed. Therefore, it cannot be given as an answer for distribution. Hopefully, this Question can be deferred until next week.

**Mr. Speaker:** Mr. Were, I suppose there is not much I can do. Can I defer this Question?

**Mr. Were:** Mr. Speaker, Sir, could I request that it be answered on Tuesday next week?

**Mr. Speaker:** Very well. I will do that.

*(Question deferred)*

## QUESTIONS BY PRIVATE NOTICE

### MEASURES TO AVERT FAMINE IN NORTHERN KENYA

**(Prof. Oniang'o)** to ask the Minister of State, Office of the President:-

- (a) Is the Minister aware that there is a looming drought and famine disaster in northern Kenya?
- (b) What contingency measures is he putting in place to avert the disaster and save human lives?

**Mr. Speaker:** The Question is deferred.

*(Question deferred)*

### EVICION OF MABIRIKANI RESIDENTS BY NHC

**Mr. Khamisi:** Mr. Speaker, Sir, I beg to ask the Minister for Roads, Public Works and Housing, the following Question by Private Notice.

- (a) Could the Minister explain why residents of Mabirikani in Kilifi Town have been given notice to vacate land belonging to the National Housing Corporation (NHC)?
- (b) When did NHC acquire the land and from whom?

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

- (a) The residents of Mabirikani in Kilifi Town have been served with a notice to vacate land

belonging to the NHC since they have breached a contract between them and the NHC. The residents owe the corporation Kshs4,325,000 in breach of an agreement to pay the later Kshs7 million for the land in question.

(b) The National Housing Corporation was allocated the land by the Government of Kenya in 1993, vide an allotment letter Ref. Number 54187/XI/184 dated 15th December, 1993.

**Mr. Khamisi:** Mr. Speaker, Sir, when the Minister for Local Government visited my area and addressed a public meeting, he gave a commitment, on behalf of the Government, that the Government will take care of the arrears by the end of this year and that title deeds will be issued. Since this commitment was made by a senior Minister of this Government, could the Assistant Minister tell this House when these arrears will be taken care of?

**Eng. Toro:** Mr. Speaker, Sir, the agreement is between the residents of Mabirikani and the NHC. The Minister for Local Government is not part and parcel of the agreement that was entered into between the residents and the NHC. A 21-day notice was given as per the sale agreement which was signed. The breach of that agreement necessitated the NHC to give the 21-day notice for them to vacate.

**Mr. Sasura:** Mr. Speaker, Sir, there has been a lot of misunderstanding between the NHC and the local authorities in this country over houses and land on which houses have been constructed, on behalf of various institutions, by the NHC. The NHC ends up selling these houses to individuals by working with the office of the Commissioner of Lands. Could the Assistant Minister give a categorical statement on the status of the NHC houses in this country and the status, by way of ownership, between the county councils and the NHC?

**Eng. Toro:** Mr. Speaker, Sir, when the NHC constructs houses for sale there is an agreement between the municipalities and the NHC. The NHC has no choice but to invoke the conditions contained in the agreement when either municipal councils or individuals default in payments or the absolute sale of the said houses. The NHC is owed in excess of almost Kshs1.5 billion and they cannot write off those loans. They have got to make sure that they recover the expenses.

**Mr. Kingi:** Mr. Speaker, Sir, it has become common practice for people in the coast region to be given notice to vacate land on which they have lived for many years. We have evidence to show that this piece of land was occupied many years before it was allocated to NHC. Since this was an illegal allocation, could the Assistant Minister nullify it and return the land to the rightful owners?

**Eng. Toro:** Mr. Speaker, Sir, I think the hon. Member is misleading the House. The NHC was allocated the 75 acres of land in December, 1993, and thereafter squatters invaded and settled on that land. That is why they were prepared to enter into an agreement. They formed Mabirikani Residents Committee in May, 2001. If the residents were there before the allocation, they would not have gone to pains of signing an agreement. The truth of the matter is that they moved into the land after it was allocated to the NHC.

**Mr. Khamisi:** Mr. Speaker, Sir, this particular estate has 700 households composed of over 3,000 people and most of these people are actually poor. In view of what he has said, could the Assistant Minister consider withdrawing the notices and writing off that debt so that these people will be relieved from this debt and be able to live a normal life away from the threats of the NHC?

**Eng. Toro:** Mr. Speaker, Sir, the residents have been given ample time to pay. Apart from defaulting, they have been able to pay a total of Kshs2,675,000 since 2001 up to March this year. After March this year, they had undertaken to pay within 60 days which they failed to do. It is not a question of letting them settle down without payment. There is an agreement and if they raise the

required amount of money, they will be able to stay. At the moment, they have not been able to raise the money as per the agreement, but the question of letting them stay without paying does not arise.

RATIFICATION OF WHO CONVENTION  
ON TOBACCO CONTROL

**(Mr. Onyancha)** to ask the Minister for Health:-

(a) Is the Minister aware that Kenya, through the Ministry, played a major role in ensuring the success and adoption of the WHO Framework Convention on Tobacco Control (FCTC) to its present form?

(b) Why has Kenya not signed and ratified the FCTC even after 75 countries have appended their signatures, 16 of which are from Africa?

(c) Could the Minister urgently consider gazetting all pending Ministerial pronouncements on the regulation and control of marketing and use of tobacco, as allowed by the present law?

**Mr. Speaker:** The Question by Mr. Onyancha is deferred.

*(Question deferred)*

**POINT OF ORDER**

IMPLEMENTATION OF THE  
PENSIONS (AMENDMENT) ACT

**Mr. Musila:** Thank you, Mr. Speaker, Sir. This is one of the rare occasions when your Deputy has to seek a Ministerial Statement. I want to thank you for the opportunity.

As you are aware, this House passed The Pensions (Amendment) Bill, 2003, on the 17th of July. His Excellency the President gave his assent on the 22nd of September, 2003, therefore, making it law. Section 16(a) of the Act requires that a person to whom a pension or other allowance is payable under this Act shall be entitled to be retained in the service until payment in full of the gratuity payable.

Mr. Speaker, Sir, Section 19(a) requires that a dependant's pension payable, shall be paid to the dependant within a period of 90 days. I now rise to seek a Ministerial Statement from the Minister for Finance, to inform this House and Kenyans at large, what measures the Government has put in place to ensure that come January, 2004 which is only five weeks away, the Government shall implement the above provisions, and also to inform the House what the Government is doing to clear the large number of unpaid pension arrears, which I understand is running into thousands of shillings.

Thank you.

**MINISTERIAL STATEMENT**

MEASURES TO DEAL WITH  
MATATU STRIKE

**The Minister for Transport and Communications (Mr. Michuki):** Thank you, Mr.

Speaker, Sir. During the morning sitting yesterday, I am advised that Mr. Ndolo, the hon. Member for Makadara, demanded a Ministerial Statement from the Ministry of Transport and Communications.

Mr. Speaker, Sir, I would like to express my appreciation for the support this House has given to us, and true to the words of Mr. Ndolo, the NARC Government is very firm on this issue and there is going to be no turning back in regard---

*(Applause)*

There is going to be no turning back in regard to bringing discipline into our transport industry.

Mr. Speaker, Sir, we all recognize the role that public service vehicles play in our economy but, as we talk today, road carnage has become the third greatest killer after HIV/AIDS and malaria. As a responsible Government, we have no other option than to take measures to curb this carnage and protect our people.

The statistics I have show that, between January and September this year, a total of 11,989 accidents took place on our roads. Of these accidents, 80 per cent involved *matatus* and other public service vehicles. Two thousand active Kenyans who were in one form or another effectively contributing towards our economy have been killed so far, and about 2,500 others have been seriously injured, with others being permanently crippled. This trend has been there for quite a number of years.

Mr. Speaker, Sir, it is for this reason that my Ministry, in conjunction with other Government departments and institutions has launched a national road safety campaign which will help curb road carnage. The campaign includes removal of un-roadworthy vehicles from our roads, elimination of overspeeding and overloading, the fitting of speed governors and safety belts and educating road users and commuters on road safety, amongst others.

As hon. Members will know, the majority of *matatus* in Kenya use diesel oil. In the case of diesel oil and speed governors, all that is needed is to adjust the gadget that injects diesel into the carburettor and the pistons. There is no foreign body that will be fitted.

Mr. Speaker, Sir, we originally directed that these rules with regard to speed governors and safety belts be effective as from 2nd November, 2003. But after a petition from the Matatu Welfare Association, we extended this date to be effective from 31st January, 2004. What the Matatu Owners Association are asking for is that, the rules should not be effected. This is what has led them to call for a strike. I consider this as pure blackmail, and I urge this House to support the Government in its resolve.

*(Applause)*

There cannot be any discussions or debate on whether or not minimal innocent lives should be lost on our roads. The Government shall not accept to be blackmailed by the *matatu* owners who seem to have placed more importance on the amount of money they make instead of the safety and lives of our people.

Mr. Speaker, Sir, since this strike took effect, my office has continued to receive messages of support from *wananchi*, many of them asking us to remain firm.

*(Applause)*

I would like to thank public service vehicle operators, like the Kenya Bus Service who

continue to offer services to the City residents. There have been a few incidents of attack on some of these buses, in areas such as Ngummo, Kibera, Makadara, Kawangware and Kikuyu. But the quick action by the police managed to contain the situation and in particular, this morning where in Makadara, someone attempted to set a bus belonging to Kenya Bus Service on fire. Quick action by the police saved the bus, but two seats had been burnt by a Molotov cocktail and the man was immediately arrested. I am sure we shall soon know who his masters are, as they go to rescue him from the police.

Mr. Speaker, Sir, I would also like to thank private citizens who have gone out of their way to give lifts to their neighbours. This is one of the hallmarks of the Kenyan people. People have given one another lifts on the roads, and it has been very exemplary in this respect.

This House should also note that the Government has increased the number of trains plying within the City environs to help ease the commuter problem. The Kenya Railways Corporation is operating train services throughout the day in the following areas: Kahawa, Kibera, Kikuyu, Embakasi, Thika, Ruiru and Athi River. Today, there are 26 trains plying this route as I speak here, since this morning up to the evening.

Mr. Speaker, Sir, we also have about 260 buses within this City which are guarded by the police and ferrying citizens all over the place. As I came here, I learnt that *matatus* on Route No.11 are now operating.

This is a campaign we must win, for the alternative means that the opportunity to re-introduce order within this industry will have been lost forever. Kenyans are prepared to walk to bring about this change, as every step we make moves us closer to safety.

Thank you.

**Mr. Speaker:** This is not a debate! I will allow only two hon. Members from each side to seek clarification.

Mr. Ndolo!

**Mr. Ndolo:** Mr. Speaker, Sir, I thank the Minister for that good statement. I agree 100 per cent with Kenyans that *matatu* owners in this country are indisciplined. I also agree 100 per cent with Kenyans---

**Mr. Speaker:** What clarification are you seeking?

**Mr. Ndolo:** Mr. Speaker, Sir, what I am saying is that the Minister should clarify the following. He met the *Matatu* Owners Welfare Association Chairman, Mr. Mbugua. Why is he not meeting other *matatu* owners associations to curb more problems in this country? Mr. Mbugua does not even own a *matatu* in this country. So, let him meet other people who own *matatus*.

**Mr. Speaker:** I will give Mr. Sasura a chance and then the Minister will respond!

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

**Mr. Speaker:** No, I am sorry. Order!

**Mr. Sasura:** Mr. Speaker, Sir, I think this Minister deserves a pat on the back for his action. I would like to seek one or two clarifications: First, considering the fact that *matatus* were a major cause of traffic jams on our roads, could the Minister explain why we have even more serious traffic jams and the *matatus* are not on the roads? Is it that traffic policemen are not working or why are we having serious traffic jams now?

If the Minister could listen! Mr. Kombo should just relax! Secondly, I would like to seek clarification on the matter of security. We can see that there is a bit of security on the roads, especially where the Kenya Bus Service vehicles are operating. But the most affected people are the pedestrians who commute between town and places like Kibera and Mathare. There is a lot of insecurity on the roads. Those who walk are accompanied by thieves! Could the Minister highlight what measures he is taking, together with the Office of the President, to ensure that those people are

safe, especially during early morning and early evening hours?

Lastly, as far as school children are concerned, the pictures that were shown of the train from Ruiru to Nairobi were very scaring! Most of them were riding on top of the train. Could the Minister, for the sake of our school children, ensure that special wagons are set aside for their use?

**The Minister for Transport and Communications** (Mr. Michuki): Mr. Speaker, Sir, I wish to thank the two hon. Members who have raised questions, mainly because of the interest they have shown in this matter, which is of national importance. First, the issue of meeting the leadership of the *Matatu* Owners Welfare Association, is was a very clear issue. I want to assure this House that it is my duty to do so when I am requested to meet people such as the chairman and his officials. But I think this House is entitled to know that, in the light of the content of the question, I have never received any request from anyone within the *Matatu* Owners Welfare Association to meet. I have said that I am prepared to meet them. But I cannot go into the streets looking for them. That is the whole point. If they want to meet me, I am at the Transcom House most of the time, from 7.30 a.m. I can even meet them at 7.00 a.m. if necessary.

So, I appeal to the hon. Member for Makadara to advise those who have gone on strike to bring back the *matatus* on the roads, so that we could then begin talking.

Mr. Speaker, Sir, addressing the issue of security, the police have done a superb job in safeguarding the lives of many people. As I said, those who were throwing stones yesterday were---

*(The Vice-President and Minister for  
Home Affairs was applauded as  
he entered the Chamber)*

I also join hon. Members to welcome the Vice-President and Minister for Home Affairs into the House.

Mr. Speaker, Sir, yesterday, those who were found either obstructing the roads or even throwing stones were arrested. I think 140 people were arrested and 20 vehicles impounded because of that. The police are everywhere and doing their best. We are consulting continuously over this matter.

Thank you, Mr. Speaker, Sir.

RINDERPEST OUTBREAK IN GARISSA  
AND IJARA

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Speaker, Sir, my Ministerial Statement is about the quarantine imposed in Garissa and Ijara districts after a rinderpest disease outbreak. The mandate of the Ministry of Livestock and Fisheries Development is to control and eradicate major livestock diseases with a view to increasing animal productivity, facilitate marketing of livestock and their products and improve public health through the control of zoonotic diseases. Our concerns relate to major diseases that affect production directly through deaths and which also disrupts international trade in livestock and livestock products. These diseases includes rinderpest, contagious bovine pleuropneumonia, foot and mouth disease, lump skin, Rift Valley fever, African swine fever and newcastle among others.

Mr. Speaker, Sir, in pursuit of that mandate, the Ministry has maintained surveillance throughout the country. In the month of September this year, clinical signs in the semblance of rinderpest were detected by surveillance teams in the area of Jarajela in Garissa District which borders---

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

**Mr. Speaker:** What is it? Order, hon. Members.

**Mr. Maore:** On a point of order, Mr. Speaker, Sir. Is it in order for a Member to come naked in a miniskirt?

**Mr. Speaker:** Order, Mr. Maoka Maore! You must have absolute respect for ladies! Could we, please, listen to the Minister because the issue he is talking about is the very livelihood of Kenyans who occupy 75 per cent of this country's land surface?

*(Laughter)*

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Speaker, Sir, somebody around here reminds me that it is also the livelihood of the Chair.

**Mr. Speaker:** Order!

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Speaker, Sir, in pursuit of that mandate, the Ministry has maintained disease surveillance throughout the country. In the month of September this year, clinical signs in the semblance of rinderpest were detected by the surveillance teams in the area of Jarajela in Garissa District, which borders Somalia. Samples were drawn from clinical testings and Muguga Regional Reference Laboratory and a mild strain of the disease detected. The rinderpest disease outbreak was subsequently confirmed on 10th October, 2003. In the fulfilment of the requirements of disease control emergency measures, the Ministry, thereafter, enforced a quarantine on trading in livestock to cover Garissa and Ijara Districts. That was necessary in order to prevent spreading of contagious diseases to other parts of the country and to allow the Ministry to carry out further effective vaccination cover, along with the necessary disease surveillance in adjacent districts.

Mr. Speaker, Sir, the Ministry has allocated over Kshs6 million for vaccination against rinderpest and disease research in affected areas. The exercise is making good progress and, to date, over 55,000 heads of cattle have been vaccinated. However, heavy rains in the affected areas have disrupted the vaccination programme, forcing the exercise to take longer than envisaged. With the continued co-operation with livestock farmers in the affected areas, it should be possible to complete vaccination by the end of this month and, therefore, lift the ban. We wish to thank the cattle owners for their co-operation in presenting their animals promptly for vaccination. We appeal to leaders and livestock owners, who have not presented their animals for vaccination, to do so promptly to hasten efforts of the rinderpest eradication and to facilitate lifting of the quarantine. We also urge stock traders to work closely with the Department of Veterinary Services to ensure that livestock from affected areas are not imported, for instance, from neighbouring countries without prior veterinary inspection at our border points. In view of the positive achievement registered in vaccination campaigns, the Ministry has decided to review the quarantine situation and allow movement of trade on sheep, goats and camels from the quarantine areas after they have been duly inspected and certified by technical personnel of the Department of Veterinary Services. The ban on cattle trade and movement remains in force until further notice. The Ministry has given its assurance that the on-going vaccination against diseases such as rinderpest shall be intensified to ensure that the quarantine is lifted in the shortest time possible.

It must be understood that we are neighbouring Somalia and animals on the other side find better market in Kenya. It is, therefore, for the security of our own animals that this quarantine is on. The Government will continue to co-operate with livestock farmers in that area to make sure that they are disease free.

**Mr. Speaker:** I will give two Members a chance to seek clarifications; hon. Dr. Galgalo



and hon. Abdirahman.

**Dr. Galgalo:** Thank you, Mr. Speaker, Sir. This issue of the outbreak of immunisable diseases engulfs our livestock population from time to time, prompting the Ministry to declare quarantines. It is a very common problem and, in my opinion, there are two reasons why this continues to happen. First, the Ministry does not have a comprehensive immunisation programme for our livestock, like what we have for our children, the Kenya Expanded Programme of Immunisation (KEPI), which has lowered the prevalence of diseases in our population. What plans does the Minister have to establish an immunisation programme for our livestock, so that those diseases do not continue to wreck havoc on our animals? Secondly, we know that this Government has not been employing technical people; those who have been trained in the management of livestock diseases, especially veterinary doctors. They have not been employed for a long time yet, those are the people who would be able to detect those diseases and take preventive and curative measures when diseases occur. What plans does the Ministry have to recruit qualified technical people to be able to cope with this problem?

**Mr. Speaker:** You have to be very brief now.

**Mr. Abdirahman:** Mr. Speaker, Sir, I will be very brief. I would like to remind the Minister first, on a request that has been constantly made in this House, on the status of the Kenya Meat Commission (KMC). Maybe, he can go home and come back on Wednesday and brief us on the status of the KMC and the reopening. However, I would now like to ask the Minister two questions. Now that the Minister admits that the Kenya-Somalia border is so porous and that controlling the movement of animals across the borders cannot be managed by the local communities, and since we know that there is only one testing equipment for diseases, particularly the dangerous ones he mentioned, what efforts is the Ministry going to make to ensure that we have similar testing equipment for diseases in at least, one more district in North Eastern Province? Secondly, there are quite a number of international agencies that deal with animal health, which are either across the border in Somalia or even in Kenya. What concerted efforts is the Minister making with those agencies to make sure that we do not continue to face the quarantine that has been imposed in the whole province? Lastly, there were reports related to studies on quarantine that were carried out in the entire province in 2001. What are the results of those studies?

**Dr. Godana:** Mr. Speaker, Sir, it is well and good for the Minister to give that elaborate Statement on the control of diseases and vaccinations. This country's livestock exports to the Middle East, and particularly to the lucrative Saudi Arabia market, was banned on the grounds that there were reports of Rift Valley Fever. Countries whose livestock exports there were banned with us like Sudan, Ethiopia and Somalia, even without a government, have already secured international certificates declaring them free of Rift Valley Fever and have, therefore, begun exporting their livestock to that lucrative market. We are told by the Saudis that the Kenya Government has yet to secure an international certificate of freedom from Rift Valley Fever. Why is this the case and what action is the Minister taking to ensure that our exporters do not lose?

**The Minister for Livestock and Fisheries (Mr. Munyai):** Mr. Speaker, Sir, I want to thank the three Members of Parliament who have raised questions. However, I would like the Members and the whole House to take note of the efforts we have made up to now, taking into account the fact that we are only ten months in the Government and we took files without recommendations. However, on the immunisation programme, so far, we have had about four seminars assisted by the Africa Union (AU) on the issues already recommended earlier and now, on how we can face eradication of some of the diseases in these areas. Soon, this House will witness these kind of programmes. In fact, I have just come from Western Kenya, and Siaya and Bondo in Nyanza, because of a disease outbreak that was reported, to show the seriousness of this Ministry. It is true

that employment of veterinary officers was stopped and, as I had said earlier, the Government is very keen to make sure that we have got people to take care of our livestock. In fact, I have issued instructions and directives from my office that all agroveterinary shops and stores in Kenya must be treated like pharmaceutical shops as it is done in other countries, because you cannot open a human pharmaceutical chemist without a qualified person over the counter. All agroveterinary shops must be manned by qualified persons, not my mother or grandmother who might even end up finishing more of the animals.

Mr. Speaker, Sir, on the issue of the Kenya Meat Commission, I hope to talk about it sometime next week. I do not know whether it will be Tuesday or Wednesday, but I will find out.

On the testing equipment, discussions with our development partners are at an advanced stage to make sure that several editions of testing equipment are brought, because it is to our advantage and to the advantage of our farmers. It is important to note that some of these diseases are cross-border and they do not know their borders. We may rid Kenya of them but they are existing in Somalia, Sudan and our other neighbours. We, as the Ministers of Livestock and Fisheries within the East African Community are discussing together on how best to address some of these issues.

Finally, let me assure this House that my Ministry has done all it can, to make sure that our meat and meat products and livestock are safe for all of us. I have met the Saudi Arabia Ambassador whom I complimented for a statement he made in as far as giving us a certificate of clean health. Egypt and other Middle East countries are now accepting our meat. So, my appeal to you is to keep healthy animals and sell them all over the world.

**Dr. Godana:** The animals are there!

**The Minister for Livestock and Fisheries** (Mr. Munyao): You had not even made any effort when you were Minister!

**Mr. Speaker:** Order! It is not a question of who was the Minister at that time. I think Kenyans want to know where they can get a certificate to export cattle, if it is required.

**Dr. Godana:** Mr. Speaker, Sir, could the Minister table a copy here?

**The Minister for Livestock and Fisheries Development** (Mr. Munyao): Mr. Speaker, Sir, the last remark I made was a joke between me and Dr. Godana. I said it in a low tone, but it came out loudly. The two of us are great friends and I would not want to offend him.

Mr. Speaker, Sir, our country has been allowed to export meat to other countries.

**Mr. Speaker:** Very well! That is the end of that matter. I am sorry. Mr. Syongoh, I think you had a valid question. Could you ask it later on! That is the end of Question Time!

Next Order!

### COMMUNICATION FROM THE CHAIR

#### DEFERMENT: COMMITTEE STAGE OF PRESIDENTIAL RETIREMENT BENEFITS BILL

**Mr. Speaker:** Hon. Members, debate on the Presidential Retirement Benefits Bill has been deferred.

*(Committee Stage of the Bill deferred)*

Next Order!

**Mr. Muite:** On a point of order, Mr. Speaker, Sir. Some of us had come here prepared to

contribute to the Presidential Retirement Benefits Bill when we looked at the Order Paper. Perhaps, you could give the House the reasons for deferring it.

*(Applause)*

**Mr. Speaker:** Order! Mr. Muite, one of the Standing Orders states as follows:-  
"The House shall take business in such manner as is directed by Mr. Speaker."

So, I direct!

Next Order!

### MOTION

#### ADOPTION OF ELEVENTH PIC REPORT

THAT this House adopts the Eleventh Report of the Public Investments Committee on the Accounts of State Corporations laid on the Table of the House on 3rd July, 2003.

*(Mr. Muturi on 11.11.2003)*

*(Resumption of Debate interrupted  
on 19.11.2003)*

**Mr. Muturi:** Thank you, Mr. Speaker, Sir. Yesterday, when the House adjourned, I was replying to this Motion. I said that this House has been debating successive Reports of the PIC regarding the status of various parastatals year in, year out.

*[Mr. Speaker left the Chair]*

*[Mr. Deputy Speaker took the Chair]*

One must pause to ask this question: Why would anybody think of investing? A simple answer would be because you would want to get good returns on your investments. If the Government of Kenya decided to invest in various parastatals, it must show seriousness in recouping the investments. The Government must see to it that the public resources it has been pumping into various parastatals benefit the public at the end of the year. The Reports of the Controller and Auditor-General, which are submitted to this House, and which become the subject of debate before the Committee, show misuse and absolute plunder of public resources year in, year out. Indeed, the situation has been deplorable. The question we should ask ourselves as Kenyans is whether we need to continue investing in these parastatals.

It is not enough for the Government to continue subsidising public enterprises which have shown lack of capacity to improve or to stand on their own. Indeed, it is not wise for the Government to chip in and bail out parastatals in which enormous public resources have been expended. We all know the recent case where the Government pretended to bail out the Kenya Power and Lighting Company (KPLC) by purporting to increase its equity in another corporation. The truth of the matter is that the KPLC has been trading, but it has not been making profit year in, year out.

As I tabled this Report, I did indicate that, if you looked at the list of State corporations which have been exempted from the provisions of the Exchequer and Audit Act, Cap.412 of the laws of Kenya and those which have been exempted from the provisions of the State Corporations Act, Cap.446, you will find that the Government, and by extension the public, has lost enormous resources in them. Most of them were being audited by private auditors. One wonders whether these private firms, namely; Ernest and Young, Coopers and Lybrand, and PriceWaterHouse Coopers have been auditing the accounts of the KPLC. Is it possible that these auditing firms have never seen that these corporations are going down the drain so that they could advise them and, therefore, advise the Government, through Parliament, that they are wasting their resources, and that the Government lacks the capacity to do business in the manner proposed in those corporations? Why should these State corporations continue trading? If the Government wants to trade, the Committee recommended that then it should have clear privatisation policies.

I am happy that Prof. Anyang'-Nyong'o said in his contribution here that they are working on a legal framework in which they will introduce transparency in the privatisation of State corporations. It is desirable, looking at the losses which have been incurred year in, year out, that the Government divests itself from doing business.

Mr. Deputy Speaker, Sir, on a more proactive note, Standing Order No.148(5)(c) states as follows:-

"to examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound business principles and prudent commercial practices:"

Why is it then that the two watchdog Committees of the House, and particularly the PIC, are only required to make Reports at the end of the year? Will it not be more plausible for the Committee to be mandated to make quarterly reports to the House so as to show areas in which there is possibility or evidence that certain Government parastatals are likely to go down the drain?

Mr. Deputy Speaker, Sir, the Committee recently raised the issue as one of the recommendations. We are glad, like I said, that we have an Advisory Committee. This is one area in which there has been terrible misuse because successive heads of the Civil Service and Secretaries to the Cabinet have assumed the roles and functions of the State Corporations Advisory Committee which is to advise on the running of State corporations. As we know, the Act was enacted in 1986 and it is really a shame that the Government enacted a law so long ago to ensure that the affairs of State corporations are run professionally yet decided to sleep on the very recommendations or provisions of the law that it passed here that, there should be a State Corporation Advisory Committee. Two weeks ago, the Government saw the need to implement various recommendations of this House regarding the necessity to have that Committee established.

I may again pose this question: "If we want to see professionalism in the management of affairs in State corporations, how then do we choose those who go to serve in those corporations?" If we do not choose that Committee on the basis of qualification and competence, it just means that it will not be able to advise appropriately regarding sound business practices in the management of affairs of public enterprises. In many situations, like will be found in the Committee's Report, some of the boards in Government parastatals are composed of members who find the use of the English language an anathema. If you appoint an illiterate board member to the Board of Kenya Power and Lighting Company (KPLC), and the only language that he understands is some poor Kiswahili, how is he expected to understand when he is told that a company called IberAfrica will be charging KPLC US\$565 per kilowatt hours for 20 years from the day that they start producing 48 kilowatt hours? How is that kind of board member going to understand that kind of complicated language as we find in such a parastatal?

It is no wonder today that you find KPLC has mortgaged this country through the various contracts that it has entered into with the four independent power producers. For example, if you try to find out the ownership of IberAfrica, you will be taken round in circles and given Spanish names, all meant to camouflage the real owners. The Committee undertook a study tour to Malaysia where it held a session with the equivalent of the Committee in the Treasury in Kenya that deals with investments. In Malaysia, they do not know about this company called Westmont Beahd Land. According to them, they thought it was a criminal fugitive yet here in Kenya we have entered into an agreement with them. If you ask KPLC to tell you who the directors of that company are, they will give you names that mean nothing to Kenyans. Nobody would tell you who it is we entered into agreement with. A company called All Power4 Geothermal at Olkaria drills into an area where they agreed that they would supply between 48 and 64 megawatts per year, but only manages to produce eight megawatts in two years and an extra four megawatts. The KPLC says that when they are able to achieve the production of 48 megawatts, they will arrange for them a contract to supply them for two years. Is that not mortgaging the country?

Mr. Deputy Speaker, Sir, some of these boards have been inefficient and it is not just something that we can say was only happening in the past. The past has been very dirty and we cannot hide that fact. Indeed, we should avoid making those mistakes that were committed in the past.

In the past we saw the construction of a mere nine kilometre road from the main Mai-Mahiu-Narok Road to Gemwa Pump Station, costing a whopping Kshs541 million. As if that was not enough, a small road from the pump station to the storage tanks opposite Stem Hotel in Nakuru, Emergency Exit Road, which measures approximately 250 metres cost the Kenya Pipeline Corporation (KPC) Kshs104 million. At that rate, you can understand why some of the people who were meant to be here are sceptical about being invited to the Investment Conference. At that rate, how can we ever develop if we are going to tarmac a small 250 metre road at the cost of Kshs104 million? One may think that those were matters of the past and that they should have come to an end. However, it is on record this year that even the current Chief Executive, a person who is a former Member of this House, was seen flying around in a chopper belonging to the same corporation, merely going to attend a Harambee because the person who dethroned him is now a Member of Parliament here. Surely, who was going to pay for that? This is total waste and it is for that reason that the Committee strongly feels that we should remove political patronage as a criteria in the appointment of Chief Executives of various parastatals in Government.

If the Government intends to get return on its investments, it is important, and I believe, that we must embrace the concept of performance-based contracts in the appointment of the Chief Executives. Let us advertise the various posts which exist in our parastatals. If we are not willing to adopt that, then let the Government move out of business. We must get people to tell us that this is what they are qualified in and this is what they are going to deliver if we give them a contract for three years. The Government must then negotiate and agree that, that is what they are going to deliver and if they do not deliver or if mid-stream they are found to be moving in the wrong direction, the Government should be at liberty to terminate those kinds of contracts. At the end of the contract period if the person has not delivered, the Government should be at liberty to re-advertise for another executive based on this performance-based concept.

Mr. Deputy Speaker, Sir, I am gratified to know that His Excellency the President alluded to this in one of his recent speeches. However, that still remains to be seen because Kenyans are said to be full of very great ideas which only appear to be great on paper and not in implementation. As hon. Members did debate this report, there was concern raised that there was nobody from Treasury to take note of their comments. It is, therefore, important that I address it. It is for this reason that

after the adoption of various reports, Treasury issues what they call "the Treasury Memorandum on the Implementation Status of the Adopted Report." Some of their reports are very interesting to read. For example, their report on the implementation status of the 10th Report which was being debated alongside the 11th Report said this:

"The Managing Trustee, Mr. Muindi and the Board of Trustees to be held responsible for the loss because they did not conduct any feasibility study on the project."

The chief executive confirmed that the matter had been forwarded to the Permanent Secretary, Ministry of Labour and Manpower Development. That was the implementation status of recommendation of the 10th PIC Report. The Second report says:

" Because they relied on exaggerated valuation compared to the valuation given by the Government valuers."

The status of implementation indicated that the matter was being followed by the Government. Surely, who can believe this? One will have to live in outer space to believe Treasury is serious about this report. Even where the Committee recommends that persons named be investigated or the matter be taken to the Attorney General for investigation and, if possible, prosecution; Treasury would say the file has been forwarded to the Attorney General. That is the implementation status. So, the following year, of course, they will not have anything to do with that particular report.

Mr. Deputy Speaker, Sir, with the new Government in place, we want the report by this Committee taken much more seriously. If the recommendation is that a person be investigated, we need to get a report to the effect that investigations are carried out and, probably have revealed that this person was guilty or not. We want to be told that after investigation, the matter was taken to court and this person is awaiting trial, or has been tried, convicted or acquitted. However, when we have reports indicating that the file had been forwarded to the Attorney-General, really, is that the status of implementation? It is for those reasons that hon. Members did raise serious concern about the absence or lack of officials from the Treasury.

Mr. Deputy Speaker, Sir, I did indicate that early this year, Treasury issued Circular No.3, dated 30th January, 2003, to all accounting officers and chief executives. It was about, among others, the preparation of budgets in various Government parastatals and submission of quarterly performance reports. We, as a Committee, have that circular. So, as would be expected, the first question we asked most chief executives was whether they had complied with Treasury Circular No.3 of 30th January, 2003. Invariably, all of them had more or less the similar answer; that they had never seen it. Does Treasury issue circulars which it has no intention of implementing? How does Treasury follow up implementation of the various circulars it issues? I am talking about the current one because a lot of the evils and ills that the Committee found afflicting various parastatals are as a result of lack of adherence to various Government regulations. If Treasury had been stringently pursuing the implementation of adherence to the various circulars regarding investment of surplus funds, we would not have seen situations like the one we had with Euro Bank. The National Hospital Insurance Fund (NHIF) would not have invested so much of its money with Euro Bank. Had Treasury been following up the implementation of its circulars, we would not today be talking of the National Social Security Fund (NSSF) which has sunk close to Kshs1 billion in Prudential Building Society. As if that was not enough, when NSSF knew very well who the directors of Prudential Building Society were, and that they were the same owners of Standard Assurance, they went ahead and allowed them to insure them. If you go through the various reports, the recommendations are that NSSF should try to recover all monies invested in the collapsed financial institutions like Prudential Building Society. One wonders; does giving them business

worth Kshs100 million show that they are actually trying to recover the money? They do not even deduct what is owed to them. This is a serious indictment on Treasury.

Treasury must ensure that the various circulars which are well sounding and meaning are implemented by those they are directed to. If they are meant to go to the various parastatals, there must be a mechanism to do so. It is not enough to require parastatals to submit their budgets because that is the only thing they seem to know. They should submit their budgets, trade and make surplus. Treasury does not seem to care. For instance, the Treasury Circular No.10 of 15th July, 1990 required that the parastatals invest surplus funds in Treasury Bills and Treasury Bonds. However, it was during that period within which we have seen all manner of flouting of those regulations. So, I am calling upon Treasury to advise the Government that these parastatals lack the capacity to trade and they should be privatised in the manner proposed by Prof. Anyang'-Nyong'o, in his contribution, yesterday. It should be done in a transparent manner. In the past, we saw Government attempting to divest, but, indeed, it was stealing from its own public. Why do you give away your own resources to part of your citizenry for a song? State parastatals have been sold off for a song without due regard to the public investment that has been put into them.

Mr. Deputy Speaker, Sir, a lot has been said about services offered to various State parastatals by various professionals. Earlier on, I alluded to the work done by various accounting firms. International accounting firms such as M/s Peat Marwick and M/s Coopers and Lybrand have been auditing all the firms that have gone down the drain. When you ask them why they cannot have their accounts audited by the Controller and Auditor-General, they tell you: "Unless our accounts are audited by international auditing firms, our financiers will never want to hear anything about us. They will never give us loans." Somehow, the Government seems to give in. We must stand up and have sufficient spine and marrow.

It has been said that lawyers have really milked the resources of our parastatals. I am a lawyer by training, but I do not hold brief for anybody. I am merely reporting what the Committee found. It is true that a number of issues were raised, some of which have been referred to the Attorney-General. Without appearing to defend the legal profession, just like Prof. Anyang'-Nyong'o said yesterday, whatever is happening in the Judiciary and in the Bar is, but a reflection of the rot in society. If you look at the consultancy services professionals, such as architects, engineers, accountants and quantity surveyors have provided to the these State corporations, you will realise that they are deplorable.

Mr. Deputy Speaker, Sir, the Report of the Committee is there for everybody to see but, at the end of the day, we must ask ourselves whether what we have been doing in our own professional cocoons defeats our standing in society. Society has degenerated. I do not want to single out any particular profession, but I want to say that professionals have performed dismally. Professionals are the ones who have brought various Government parastatals down to their knees. The cases of the National Social Security Fund (NSSF), the Kenya Medical Research Institute (KEMRI) and the Kenya Ports Authority (KPA) are there for everybody to see.

Professionals have been milking the financial resources of these parastatals. They are the ones who come up with all manner of ideas. For instance, a consultancy firm advised the KPA management to build a floating station at the Port by extending the floors of its headquarters without establishing whether the building could support an extra floor. All that consultancy firms do is to come up with papers and then claim payment for consultancy services from the parastatals. All these are indictments on professionalism and all professionals, without exception, need to re-examine themselves.

Mr. Deputy Speaker, Sir, it was not enough for the Minister for Finance to sack procurement officers. These officers are just a small component of the procurement process. There are many

other professionals involved. So, the Minister and other senior Government officials who are with him should have started by asking themselves: "Which is the way forward? How can we cleanse ourselves, particularly in this area of trading?" Governments the world over have been seen to be poor traders and cannot do business properly. We are now together in this House. If you lose the next elections and I win, and we have been relating well. If we do not nominate you back to the House, I will just appoint you to head a certain parastatal, because I know that you will be a "balanced" businessman or business woman. What I am trying to say is that if the Government is not able to trade, it must pull out of trading and let business led by the private sector thrive. Even as we talk about losses being made by various State parastatals, one pertinent point keeps emerging; that, every time the Government establishes a parastatal, there will always be professionals sitting on its board. Apart from the illiterate board members who come from the villages, there will be representation of the parent Ministry and the Treasury in the board and yet year in, year out, such a parastatal will record losses.

Mr. Deputy Speaker, Sir, the Committee had occasion to even look at some very interesting situations where the Attorney-General is represented in the board. The board proceeds to make several decisions and, finally, recommends that: "This matter is so serious. It needs to be referred to the Office of the Attorney-General", when the Attorney-General himself seats in that board. When the Boards sit, its members award themselves hefty allowances which are not provided for by law. It is embarrassing when the Committee asks the management of the parastatal to surcharge such board members. The Attorney-General is the Principal Legal Advisor to the Government.

The point I am trying to emphasize here is that the Government should appoint responsible persons to represent it in the boards of the various parastatals. It is not enough for one to wake up one morning and say: "Oh, there is a KPA meeting, and they have sent an airticket!". Such a person is rushed to the airport to take a flight to Mombasa. What does he go there to do? He has not been briefed on what has been happening. The last time such a meeting took place, the Ministry could have been represented by the Permanent Secretary (PS) himself, while other times it may have been represented by different officers ranging from Deputy PSs to Assistant Secretary. The Government must be serious. You cannot create serious boards of parastatals without feeding them with qualified personnel.

Mr. Deputy Speaker, Sir, the Government and, particularly the Treasury, must ensure that officers who are appointed to boards of State parastatals, as alternate directors, are sufficiently qualified and with appropriate authority. They should be persons who can withstand the shocking information that is given by politically-correct Chief Executives. Many members of various boards are so meek! I keep on repeating that point because we want change. It is not important that the law will give authority to a Minister to communicate with a board of a parastatal. Yes! The law will give you that, but it is very clear! The Minister gives directions on general policy. It says:- "The Minister may communicate matters of general policy to the board." But how do you communicate to the board? Do you wake up one day and pick your phone because a Sagoos has come to your office? When you say you are communicating with the board, do you pick your mobile phone and call the chief executive and tell him: "So-and-so is coming. They want to tender!"

Mr. Deputy Speaker, Sir, these examples are pertinent. It is not enough for us to keep on saying that there has been rot in the past. We are seeing the same things today! So, these things have been so bad, we must be serious about cleansing ourselves. Ministers must appreciate the legal regime which governs their various dockets. They should not tell us: "As a Minister, I am empowered!" We know those powers! It is just the law and it is very clear! You do not wake up one day and start calling a chief executive! That is not communicating with the board. What you are trying to do is actually to intimidate them. That amounts to intimidation. This House must express



its disgust at that kind of behaviour.

Mr. Deputy Speaker, Sir, as I conclude, I want to raise an issue which the Committee expressed deep concern about. Around 1997, this House enacted a law called the Retirement Benefits Act. That Act makes provisions for the management of pension funds in various Government parastatals and other organisations. Mr. Deputy Speaker, Sir, I know that you are passionate about the issue of pensions.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Can he declare his interest?

**Mr. Muturi:** Mr. Deputy Speaker does not have to declare any interests! He sought a Ministerial Statement this afternoon.

Mr. Deputy Speaker, Sir, most of the pension funds that are held by various Government parastatals are in very precarious situations. They are all not in tune with the requirements of the Retirement Benefits Act. As we speak now, the Pensions Fund of Kenya Power and Lighting Company's (KPLC) owns 20 per cent of IberAfrica, an Independent Power Producer (IPP)! If you asked me, one does not need to be a very serious businessman, to see the kind of risks the pensioners of KPLC are exposed to. What I am saying is true of the KPLC and the National Social Security Fund (NSSF)! Of course, it is the NSSF that bought rocks all over Athi River and Embakasi. There is nothing! What were they buying? Apart from the contributor's money, the pension funds established in those organisations have been encroached on. We are urging the Government, particularly the Treasury, to look critically into the issue of pensions schemes operated by various Government parastatals, with a view to bringing them into compliance with the relevant Act.

An issue was raised here by one hon. Member, I believe it was Mr. Mungatana, that, indeed, the Public Investments Committee (PIC), Public Accounts Committee (PAC) and for that matter, all the House Committees, should have a mechanism through which the general public in Kenya can access them. We should have websites, so that they can be accessed. I support that kind of suggestion and it is progressive. Indeed, I am one of those who have, for the last 11 months, been calling for a fresh look at our Standing Orders, and particularly Standing Order No.161. Committees are an extension and creation of this House. This House is opened for live coverage. In April, 2001, this House passed a Select Committee Report, popularly known as the Kirwa Report, on televising live broadcasts of parliamentary proceedings and, indeed, the proceedings in the committees. At the beginning of this year, we were given a lot of hope that by July, we were going to see the actualization of that recommendation as approved by this House. We are coming to the end of the year and that has not happened.

Mr. Deputy Speaker, Sir, the Committee feels strongly, in association with the sentiments that were expressed yesterday by Mr. Mungatana, that Committees must now open up themselves to the public through live coverage. The Press should be allowed into the Committee deliberations, even if it means suspending the operations of Standing Order No.161 for a while. Kenyans need to know that, as they see an empty plenary, some other work is being done. It is well known that Ministers may be doing very useful work in their offices and attending to various assignments. But so are Members of Parliament who sit in the committees. If the committees are going to make useful and enlightened recommendations, they too need to be strengthened by being given researchers and opening up to information and knowledge from outside. That way, even those who appear before the committees as we deliberate will know that nobody will walk out of a committee and say: "I never told them this! I did not apologise!" Is it really important whether you apologise or not? If the proceedings were covered live, such things would not be there! They should not arise! It is a small matter. We must appreciate that, as human beings, we have the capacity to do very good things and extremely evil stuff. When some hon. Members get appointed to the Cabinet, they seem to imagine

that suddenly, they have metamorphosed into angels. I mean, they must get out of this mentality. They must appreciate that they are human beings who live on earth and that they are not creatures that have descended from outer space only in the morning and to disappear at dusk. Therefore, being such human beings, they could very well make mistakes. However, without malice, those of us also who may see others make mistakes, must correct them with decorum. That is all we are calling for. There should be mutual respect.

Mr. Deputy Speaker, Sir, if committees are made public, the country and Kenyans at large, that is, the electorate, will actually appreciate that it is not necessary to have 210 or 220 hon. Members sitting here, even on the very simple Motions where an hon. Member must speak for only ten minutes. It is inconceivable that you can keep 220 hon. Members here for only one to speak for ten minutes. We do know that our democracy is growing but we need to also let the electorate know how it works. Let them know that when they see only ten Members here, the others as human beings, could be attending to all manner of things like taking tea, attending to constituents and there is even nothing wrong with some of them being in the gym. I mean it is welcome but Kenyans must appreciate that we do not have to keep over 200 men and women here. There must be opportunities for them to do other things. However, how do we tell the electorate? It is by opening our operations to the Press. Let them know. We should invite even the villagers to come and see what it is that happens. After all, we have a public gallery here. If we allow them to come and see us debate, what is wrong with inviting them to come and see us interrogating chief executives or Government functionaries? It is because we are not fighting; we are just discussing.

Mr. Deputy Speaker, Sir, you have a report from the Controller and Auditor-General that says: "KARI--- For instance, if you look through this Report, between pages 81 and 83 regarding the Kenya Agricultural Research Institute (KARI) land in Kitale, if you look at who took what, it is a pity because we still have a lot of landless people. However, if you look at the list here, you will wonder because even those who worked for KARI themselves knew what it is they had been entrusted to do. Amazingly, even on the board of KARI, there are representatives from the Ministry of Agriculture and Treasury and we have never heard that even on a single occasion, they appeared before the PIC telling it that: "You know on this day we protested". It is fashionable to protest even if you are alone. Your protestation will be recorded. They sit on those boards and none of them has ever questioned why research land has been given away. The reason being that when you read through the names, it is a shame because some of the names belong to Members of this House. It is a shame! We need to also appreciate openness. When we advertise for positions, we should allow the best candidates to win. Let us embrace professionalism and competence.

Mr. Deputy Speaker, Sir, an issue has been raised by one of the contributors that this has become a ritual. Year in, year out, the PIC and the PAC produce reports indicating the manner in which public resources have been plundered, the manner in which the Government has failed to adhere to various recommendations and yet the Government is represented in this House. When these reports are adopted, the Government should rise and say: "No, this is not correct". However, the Government has never protested. It has always endorsed these reports. It must mean, therefore, that the reports are correct.

Mr. Deputy Speaker, Sir, as I wind up, I want to suggest that we need a mechanism through which the PIC as well as the PAC Report regularly to the House, as we require Government Ministries and parastatals to provide quarterly reports. Indeed, I am not averse to suggesting that even Departmental Committees of the House must continuously give regular reports about what they have been doing in their assigned areas of competence. We have seen a lot of backlog arising from the stunted nature of the office of the Controller and Auditor-General. Even as I speak today, if you look through our Standing Orders, they still say that the work of the PIC is mainly to look at the

reports of the Auditor-General (Corporations). However, we do know that the office of the Controller and Auditor-General (Corporations) was abolished. So, it means that even this Parliament itself is not actually changing with the times. We must empower the office of the Controller and Auditor-General. We must make that office independent.

Mr. Deputy Speaker, Sir, another office that requires refurbishment is the office of the Inspectorate of State Corporations. Stories have been given in our sittings where even the Inspector-General himself, in an endeavour to enforce his mandate, goes into the board of a parastatal and receives a call and he is told to walk away immediately. We have heard it. It is recorded. It is in the HANSARD. These offices need to be made independent if they are to function and they must be given the independence to hire and fire the staff. It is not enough to place the office of the Controller and Auditor-General in the Treasury. Part of the reason why it has such an emasculated staffing level is obviously because it is desirable for the Government to retain it as weak due to lack of staff. If they do not give it enough staff, it will not work. This could be seen to be correct in yesteryears but it is true even now since there has not been any improvement.

Mr. Deputy Speaker, Sir, so, we are saying and I am urging that the Government takes over this 11th Report of the PIC and implements its recommendations to the full. There is even a good reason for the Government to implement these recommendations. Like I said when I began, this previous Committee comprised among others, the Minister for Energy, hon. Ochilo-Ayacko. So, I really do not see why the Government should find it difficult to implement this Report. Hon. Ochilo-Ayacko is in the Government and his Assistant Minister, hon. Mwangi Kiunjuri was also a Member of this Committee. Closer home, because implementation status is given by the Treasury, part of the membership of the Committee that came up with this Report included, none other than, the indomitable hon. John Mutua Katuku, an Assistant Minister in the Ministry of Finance. I implore the Government to fully endorse this Report and implement it to the full.

With those few remarks, I beg to move.

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

**Mr. Deputy Speaker:** What is it Mr. Muite? Mr. Muturi was replying and the only other course of action is for the Chair to put the Question.

*(Question put and agreed to)*

## **BILL**

### THE REFUGEES BILL

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

**Mr. Deputy Speaker:** What is it, Mr. Muite?

**Mr. Muite:** Mr. Deputy Speaker, Sir, I stand to seek the guidance of the Chair in terms of Standing Order 101A. You will recollect that this is an addition which was put a couple of years ago. Standing Order 101A (1) states thus:

"A Bill having been read a first time shall upon a Motion by the designated Minister stand committed to the relevant Departmental Committee without Question put."

Mr. Deputy Speaker, Sir, Standing Order 101A. (2) states thus:

"Where the designated Minister does not move a Motion of committal under paragraph (1), a Member of the relevant Committee may move that the Bill be so

committed, and Mr. Speaker, shall put the Question thereon forthwith."

Mr. Deputy Speaker, Sir, the Departmental Committee is required by the terms of Standing Order 101A.(3) to make a Report to the House within seven days after the Bill has been committed to it.

So, I am asking: Has this Bill been committed to any Departmental Committee? If not, are we not violating, as a House, the Standing Orders of this House? Can we proceed to the second reading before the Bill has been committed to the relevant Departmental Committee?

Mr. Deputy Speaker, Sir, this is not a technical complaint. It is in recognition of the fact that the indepth consideration of Bills which are important - and all Bills are important - can only take place at the Committee level. So, has this Bill been committed to the relevant Departmental Committee in order to enable this House to proceed to debate during the Second reading?

**Mr. Deputy Speaker:** What do you have to say, hon. Assistant Minister?

*(Loud consultations)*

My understanding is that whenever a Bill comes to the House for the first reading, the Minister always moves that the Bill be committed to the relevant Departmental Committee. My assumption is that that is done all times, unless Mr. Muite can give us evidence that the Bill before the House was not committed to the relevant Departmental Committee. Now, concerning the issues of the Report and matters pertaining to Committal, if the Committee does not bring any Report to the House within the required seven days, the House is not bound to wait for that Report. As long as the Bill was committed to the relevant Departmental Committee within seven days, and notwithstanding that there is a Report or not, we can proceed to the second reading.

So with that understanding, Mrs. Kilimo, you might proceed!

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. Mr. Muite has not got the guidance that he was seeking from you. The Chair can use its discretion to find out, through the orderlies, whether, actually, this Bill was committed to the relevant Departmental Committee.

As you know, this Bill is very important, considering that we have a problem of refugees in this country. It will be important that the relevant Departmental Committee does, indeed, come up with a Report. So, I plead with the Chair for assistance because I do not think that this Bill was referred to the relevant Departmental Committee.

Mr. Deputy Speaker, Sir, we, therefore, seek your direction.

**Mr. N. Nyagah:** Mr. Deputy Speaker, Sir, I just want to inform the House that two Bills; The Refugees Bill and The HIV/AIDS Prevention and Control Bill were, indeed, referred to the relevant Committees by the hon. Githae when he was in the House.

**Mr. Deputy Speaker:** Very well. Of course, I can also verify from the HANSARD and that is why I said that unless Mr. Muite had evidence to suggest that when this Bill came to the House for the First Reading, it was not committed to the relevant Departmental Committee, then, we must proceed to the second reading. But my understanding, and indeed, it is the practice of this House, during the first reading the Minister always moves that the Bill be committed to the relevant Departmental Committee.

Again, I want to repeat, some Committees are unable to submit Reports within seven days, but that does not bar the House from proceeding with the debate of the House. So, it is really up to the Committees to ensure that they prepare their Reports within the requisite period.

**The Assistant Minister for Foreign Affairs (Mr. Wetangula):** Mr. Deputy Speaker, Sir, although I am not trying to dispute what you are saying, the purpose of making reference of Bills to the relevant Departmental Committees is not a ritual in this House. Indeed, hon. Obwocha and I

participated in the drafting of these Standing Orders. The philosophy behind this committal was for the House to benefit from an indepth research and analysis of the Bill so that it can be enriched and brought to this House.

Mr. Deputy Speaker, Sir, under normal circumstances, I hope the Chair will direct that in the future when a Bill is committed to a Committee, the Committee has to do its work and be given, in fact, the first shot after the Mover and the Seconder of the Bill so that the House can benefit from their industry. But if reference is made to the Committee and we have no way of getting the industry of the Committee back to the House, then, it becomes a technical ritual that a Bill is just referred to a Committee simply because the Standing Orders say so. We will not be doing the correct thing. I hope that in the future, the Chair will direct that the Committees must not only do their work, but bring their work to the House to benefit the House.

*(Laughter)*

**Mr. Deputy Speaker:** Very well.

Indeed, about what you have said, the Chair has reminded the Committees on many occasions about their responsibilities in regard to examining Bills and bringing their reports. Indeed, the practice of this House has been to give the Chair or a Member of the Committee an opportunity not only to present the report, but also to make contributions. This is so.

Now, I want to confirm that the Bill was referred to the relevant Departmental Committee on 30th of October, 2003, when it came up for the First Reading. Now, Minister, you can continue and move---

**The Assistant Minister for Home Affairs** (Dr. Machage): On a point of order, Mr. Deputy Speaker, Sir. With your permission, I would like to move that the Committee be censured for not taking its work seriously.

**Mr. Deputy Speaker:** Order! Order! You are completely out of order! Maybe you can make your request when you get a chance to contribute to the Bill. I think it is not right to proceed in that manner.

**Mr. Nderitu:** On a point of order, Mr. Deputy Speaker, Sir. Due to the magnitude of what we are going to discuss now about refugees, among others, first, could you let us know which Committee was given the responsibility to carry out the investigation and the name of the Chairman of the Committee?

**Mr. Deputy Speaker:** I think, Mr. Nderitu, you can find out those details as we go on. You can look for that information to be able to know which Committee is relevant to the subject in question; the refugees and you will be very well informed.

Proceed, Minister!

**The Minister of State, Office of the Vice-President and Ministry of Home Affairs** (Mrs. Kilimo): Thank you, Mr. Deputy Speaker, Sir. I beg to move that the Refugees Bill be now read for the Second Time. Before I allow the House to debate on it, I wish to give some background information. Kenya has acceded to and ratified the 1951 United Nations (UN) Convention relating to the status of refugees, and its 1967 Protocol as well as the Organization of African Unity (OAU) Convention of 1969 governing the specific aspects of refugees' problems in Africa. These are the major instruments that Kenya has been using in managing the refugee programmes. The management of refugees has been constrained by the absence of a comprehensive domestic refugee legislation. The Aliens Restriction Act, Cap 173, which generally deals with aliens' matters does not adequately address the issues of refugees. In view of the constraints inherent in the current management of refugees and asylum seekers, there is an urgent need to adopt a domestic refugee

legislation to complement the international legal instruments.

Mr. Deputy Speaker, Sir, I wish to touch on the current status of refugees in Kenya. Kenya is host to 230,000 registered refugees, mainly from Sudan and Somalia. Other countries include Ethiopia, Rwanda, Burundi, Eritrea, the Democratic Republic of Congo (DRC), Uganda and even from as far as the Middle East. Lastly, we have about 86,000 Sudanese who are camped in Kakuma, and over 135,000 refugees from Somalia and the other regions in Dadaab. The prevailing peace in the country has attracted many asylum seekers from the countries in the Horn of Africa and the Great Lakes Region.

*(Mr. Deputy Speaker left the Chair)*

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

Mr. Temporary Deputy Speaker, Sir, the influx of refugees in the early 1990s has had its adverse effects on the economy and security of this country. It has also had an effect on the environment since the refugees live in camps. Water levels have gone down in many of the regions surrounding the refugees camps. The proliferation of small arms in Kenyan urban centres and pastoral areas may be indirectly linked to the presence of these aliens in our country. There has been a noted increase in crime and banditry activities in urban centres and pastoral areas respectively.

Mr. Temporary Deputy Speaker, Sir, concerning refugee management, refugee affairs are now mainly carried out by the United Nations High Commission for Refugees (UNHCR) on behalf of the Government hence, the enactment of the Bill will place the Government in control of the critical aspect of refugee management. For instance, refugee status determination, protection and residence will be taken care of by the Government. It will also enable refugees to settle anywhere they choose in this country, hence reduce the adverse effects they have had on the environment and water levels surrounding the camps. The Government will create a department and appropriate institutions, structures, procedures and processes for management of refugees and asylum seekers as you will note in Clause 6(3) of The Refugees Bill.

Mr. Temporary Deputy Speaker, Sir, the current peace initiatives need to be fully supported to enable refugees to return to their homes to ease the burden on the host country. Large numbers of refugees from different countries can be a source of instability and a threat to law and order. This is evident in mostly the pastoral communities where people have many illegal firearms which come from across the borders.

The way forward is that the National Rainbow Coalition (NARC) Government is fully committed to ensure that the process of legislating the Refugees Bill is accomplished soon, after it had stalled for more than ten years, hence I present this Bill before the House for debate. I wish to call upon hon. Wetangula to second the Bill.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Wetangula! She has not moved the Bill.

**The Minister of State, Office of the Vice-President and Ministry of Home Affairs** (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I thought that when I said that I present this Bill before the House for debate, I moved it.

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Mr. Khamasi): You are right now.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir. May I also say a few words about this Bill.

This Bill is long overdue in this country. The most dehumanising aspect of human life is for one to be violently uprooted from his environment and country and be forced to go and live in a country without his free will. Refugees, all over the world, have been denigrated, dehumanised and in many circumstances, they live like prisoners.

Kenya has had a long history of housing thousands and thousands of refugees from our neighbours that have been in turmoil; be it Uganda in the 1970s and 1980s, Sudan from the late 1950s, the Republic of Somalia, at one time Ethiopia, Rwanda, Burundi and from as far as Congo. You will recall that we also had a very large dose of refugees during the liberation struggles of Zimbabwe, South Africa, Namibia and Mozambique.

The Bill before the House seeks to harmonise our domestic law with the provisions of the UN Conventions and the provisions that govern refugees worldwide. As it has been noted, refugees in Kenya have been kept in camps. You have heard of the famous Kakuma Camp in northern Kenya around Lake Turkana. There are other camps in Dadaab, Malindi and many other areas. As a host country, we always suffer the problem of environmental degradation when we put refugees to camps. You can imagine putting 200,000 refugees to a camp in a fragile eco-system like Kakuma in Lodwar or Dadaab in Garissa. At the end of the day, the destruction of the environment and the deterioration of the status of the refugees themselves have a very telling effect. This Bill seeks to create a situation where refugees have a faster process of recognition and are given an opportunity and a will to decide how to live in the country, subject to our legal system that regulates their stay.

Mr. Temporary Deputy Speaker, Sir, after the passage of this Bill, refugees will have an opportunity to decide where to reside and will live like any other Kenyan. The passage of this Bill should not be seen as an invitation by the Government of Kenya to our neighbours that we are opening our doors for anybody who comes and claims refugee status. As it is, we already have our health care, housing and sanitation systems and all our other systems chocked up by our nationals to the extent that we do not have sufficient room to accommodate any more people.

Having said that, it is equally important to state that after the passage of this Bill, persons wanting to come to Kenya will have their process quickly administered, so that they know whether they are being accorded the status of a refugee in Kenya or not. We have heard in the past of criminal gangs raiding refugee camps, raping women, molesting men and doing all manner of things against them. We have also had situations where because of putting refugees in camps, those who may have even genuine cases to apply and possibly be accepted as refugees, choose to come in through alternative routes. In the process of sneaking into the country and playing a hide and seek game with the Government, we have an infiltration of guns, small arms and criminals that have strained our law enforcement capacity.

Mr. Temporary Deputy Speaker, Sir, any well intentioned person who wants to become a refugee in Kenya, something we do not really encourage, will have to apply. Upon application, the right process will be followed. However, I take issue with Clause 10(5) and urge my sister, the hon. Minister to make sure that this process does not take three months. This is a bit too long. If somebody applies to be a refugee, as you have provided in the Bill, they are taken to transit centres where they are accommodated. It should not take more than a month at the very most to process the papers and decide whether such a person qualifies to be a refugee or not. Upon such a decision, the Bill rightly provides that if there is a rejection, then the applicant can appeal to the board. The Bill equally and rightly provides that in the event the board rejects such an appeal, then the applicant will have access to a High Court on matters of law for determination. This is quite in keeping with the international legal regime of giving everybody due process before their cases are rejected.

Mr. Temporary Deputy Speaker, Sir, the Bill also provides for circumstances under which the Minister responsible can terminate or withdraw the status of a refugee. Again, although this is

not provided in Clause 18, he should be subjected to the similar appellate process of the affected person going to the board. From the board he will have access to the High Court to determine his status.

Mr. Temporary Deputy Speaker, Sir, the board being established by this Bill should at all times have impeccable persons who will determine every application on merit only. This country has suffered in the past from activities that are normally influenced by *kitu kidogo*. We should not have a board that may grant undesirable persons refugee status in the country through unacceptable means.

Mr. Temporary Deputy Speaker, Sir, upon persons being accepted as refugees, they should be given, subject to limitations of absolute rights enjoyed by Kenyans, like the right to vote, all the available rights and facilities. Their children should go to school and have access to our universities because, I believe once they are accepted as refugees, the United Nations High Commission for Refugees (UNHCR) will underwrite some of the bills pertaining to them, so that, at the end of the day, they benefit.

Mr. Temporary Deputy Speaker, Sir, I have always held a view and a passionate belief that as Africans, we should extend much greater magnanimity to our brothers and sisters who have problems in their countries than we have previously done. I hold a view that any refugee who wants to apply for nationality of our country should be given the opportunity to do so. In many cases, we have had non-Kenyan nationals making very valuable contributions to the economic development of our country.

At one time, we had a very reasonable percentage of professors and lecturers at the universities in this country who were either Ugandans, Zimbabweans or our neighbours who had initially come in because it was uncomfortable for them to stay in their own countries. They ended up making very valuable contribution to our country. If such persons were to make applications to become Kenyans, my view is; I do not see why not, especially professionals like doctors, engineers, lawyers, architects and so on. Of course, sometimes we have parochial thinking from those professionals, that, we already have too many of our own. Quality is a product of competition and if we align such people, it would add value to our public life.

It is not the wish of our Government and our country to house and host refugees. As we debate on this Bill, we want as a Government to pass a passionate plea to our neighbours who, for some reason or the other, have had problems that have made their people to become refugees. We should have such problems solved quickly, so that such nationals can go back home and live freely with their people. To this end, I want to salute the on-going peace process in Southern Sudan which is almost getting to a positive conclusion. I have no doubt that close to 100,000 Sudanese refugees might find it unnecessary to stay in Kenya once the process is concluded. Equally, I want to take this opportunity to urge our brothers in Somalia; the many Somali fiefdoms and warlords, to sit down and talk to each other so that they can bring normalcy to their country, and, enable the Somali refugees that are in Kenya to go back to their country. Above all, the importance of this Bill is that, it is going to return humanity and decent living to persons who happen to be refugees who find their way into our country.

Mr. Temporary Deputy Speaker, Sir, I salute the Office of the Vice-President and Ministry of Home Affairs, for having brought this Bill to this House. The Bill merely seeks to domesticate international law so that we are in tandem with other countries.

With those few remarks, I would like to second the Bill.

*(Question proposed)*



**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. Sasura, are you the Official Responder?

**Mr. Sasura:** Yes, Mr. Temporary Deputy Speaker, Sir.

I stand to support the Refugees Bill, 2003. Whenever I think about the word "refugee", I have always wondered whether it is better to be a refugee or in jail. I have more or less come to a conclusion that it is better to be in jail than to be a refugee. I say this because when you are in jail, at the end of the day you are assured of accommodation, a meal and some medical attention. Before all the bureaucratic processes have been completed, a refugee in plight is worse than somebody who is in a Kenyan prison.

Mr. Temporary Deputy Speaker, Sir, while enacting laws recognising the plight of refugees, it is better for our Government to first think of how to discourage the influx of refugees into this country. One way of discouraging the influx of refugees as a Government is to actively participate in peace processes in the neighbouring countries that are warring. Secondly, we should not interfere with the affairs of neighbouring countries be they political or economic affairs. Those are the two main ways in which the Government can ensure that it discourages the issue of refugees.

Mr. Temporary Deputy Speaker, Sir, this Bill has three parts. The first part is the recognition of refugees. You will find that in recognising refugees, Clause 4 of this Bill indicates that a person shall not be recognised as a refugee if he has committed a crime of terrorism or a war crime. It is enough to say a crime against peace because terrorism is a crime against peace. A war crime is still a crime against peace. So, I wonder why those who drafted this Bill talk of a crime against peace and then they talk about terrorism and war crimes as separate items because all these three are crimes against peace.

Mr. Temporary Deputy Speaker, Sir, that notwithstanding, it is very important that this Bill is not giving recognition to any persons who have committed such crimes in their home countries to be recognised as refugees in our own country. It has happened severally in Kenyan refugee camps where we have had cases of violence, rape and abuse of human rights against children and women. You will find that these vices have been carried over from the mother countries.

Mr. Temporary Deputy Speaker, Sir, we are talking of about 230,000 refugees in this country. Clause 5 of this Bill talks about citizenship. I would like to talk about citizenship with respect to acquiring citizenship; becoming a citizen of this country. Over the years, citizenship status has been bought and sold. You will find that there is a law in this country that provides for citizenship by registration and it specifies over how many years a person is eligible for application or acceptance as a citizen of this country.

There are people who have lived in this country for more than 15 years. I personally know of a family that has lived in this country for 15 years teaching religion in Marsabit, but it has been difficult to get citizenship even after having fulfilled all the conditions required by law. We have had cases where people who have come into this country have become citizens of this country and acquired national identity cards within six months, one year or even two years through illegal and corrupt means. The Government must move to ensure that there is a smooth way of acquiring these status. It is very important for somebody to be properly vetted before he gets that citizen status. As it were now, the process is cumbersome, lengthy and very crude. Most people who have lived in this country as refugees for more than 10 years do not even know how to acquire citizenship.

Another aspect of citizenship is that if you become a citizen of this country, you are supposed to forfeit your citizenship of the mother country. The Government should find out whether this is actually being done practically. We know of people who had run away from this country and acquired citizenship of other countries. However, they come back to this country and even participate in politics. This has happened despite the fact that it has been mentioned that they have

acquired citizenship of other countries. The Government should determine the status of such officials.

One aspect of this Bill that is most welcome is the creation of the Refugee Status Determination Committee. This is a very important committee that is established by Clause 6 of the Bill. There seems to be a standard procedure of setting up committees in this country. You will find that this Clause seeks to set up the office of the Commissioner of Refugees. The membership of this committee includes representatives from various Ministries including the Office of the President, Ministry of Foreign Affairs, Ministry of Local Government, Ministry of Health, Immigration Department, the police force and the NSIS.

As it has been said by Mr. Wetangula, the culture of corruption has eroded the respect bestowed upon such committees. It is very important that we have a religious representative in this committee. According to Clause 6(3) there is a provision that this committee can co-opt any person. I want to urge the Minister to take note that it is important we have representatives from various religious organisations who will be co-opted in this committee.

One very important aspect that this committee has to deal with before it grants status to refugees from various countries that are neighbouring us includes epidemics. You will find that not all the countries that are neighbouring us are at the same level of attack when it comes to scourges like HIV/AIDS, etc. This committee should be able to know the rate of infection of the refugees who are coming into this country before we allow them, as has been said, to go and live where they want. This committee might be important in as far as the spread of diseases is concerned. Kenya is making strides in fighting scourges like HIV/AIDS. When we allow refugees to go and live where they want in this country indiscriminately, we might just be letting loose what we are fighting.

This committee also should not forget the time-frame within which they are working. You will find that in most cases of disasters and in a way the status of refugees is a form of disaster to those who are affected. The most affected are women and children. When this committee is sitting and considering various issues pertaining to applications by these refugees, it should be able to give priority to the plight of women and children.

The Commissioner of Refugees has, among other functions, to formulate policy on refugee matters in accordance with international standards. There has been very little participation from Kenyan officials when it comes to matters pertaining to management of refugee affairs. Most refugees in this country are at the mercy of international organisations like the United Nations High Commission for Refugees (UNHCR). There is need for one of our own, in the name of Commissioner for Refugees, to participate actively in formulating policies of management of matters pertaining to refugees. Of course, he should not forget that he has to ask the UNHCR and other institutions to attain international standards.

Mr. Temporary Deputy Speaker, Sir, the Commissioner for Refugees must also be able to promote durable solutions for refugees who have been granted asylum in this country. Kenya is a haven of peace in this region, and we have to be very careful when we say that we are granting asylum to refuge seekers. It might be difficult for those people to change their minds. Once a refugee comes into this country and finds that Kenya is very hospitable and comfortable, it would be very difficult for a refugee to change his mind and go back to his or her mother country. This is because they do very good business here and live comfortably in peace. The Commissioner for Refugees must be able to monitor what is happening in the mother countries of the refugees *vis-a-vis* the time the refugee comes into this country.

Mr. Temporary Deputy Speaker, Sir, after the fall of Emperor Haile Selassie in 1977, many Ethiopian refugees came into this country and Col. Mengistu Haile Mariam took over power in that country. After Mengistu, another regime has come in. I wonder what has happened to the refugees

who came to this country after the fall of Haile Selassie. They ran away from the rule of Mengistu Haile Mariam, but since he went away, they are still living in Kenya. Do we leave them like that, or do we find out why, in the first place, they came to this country and tell them to go back to their country?

Mr. Temporary Deputy Speaker, Sir, I do not hesitate to say that some refugees in this country have displaced Kenyans who require land and jobs. This is because, when refugees come into this country, they come under the auspices of various organizations, like the NCKK and other religious organizations. And because the Government is normally very generous, they are normally settled in areas that have a high potential in agriculture. There is a case in Marsabit where we have more than 85 refugee families who have been settled there after the fall of Haile Selassie in 1978. Under the auspices of the National Christian Council of Kenya, they have been allocated land for farming, because there is high potential for agriculture there. They were given houses for settlement and equipment like tractors to till the same land. You will find that, when that person came to Kenya, he came as an Ethiopian man married to an Ethiopian woman, but after arriving in this country, the wife passed away in Kenya, and he married a Kenyan wife, or the Ethiopian man passes away in this country for one reason or the other and his wife is remarried by a Kenyan man and they get children who definitely will be Kenyans. So, it is very difficult to define the status of some of these people as it is now, in the year 2003.

Mr. Temporary Deputy Speaker, Sir, the Commissioner for Refugees must be able to take stock of what has happened to all the refugees who have come here, and if there is need to naturalise them, it should be done immediately. If there is also need to return them back to their countries, this should be done immediately. Sometimes there are conflicts between Kenyans and these refugees. This is not very favourable for this country. One other aspect that the Bill is addressing is the management of refugee camps.

Mr. Temporary Deputy Speaker, Sir, this Bill is talking about the creation of a post of manager for the refugee camps. Time and again, we have been told what has been happening in the refugee camps. Since most the refugee camps are set up around the border districts, you find that they come into this country with a lot of small arms which, at the end of the day, are sold to Kenyans. That is why the border districts are usually not very safe, because those arms are available at cheap prices. Sometimes conflicts within the refugee camps cause a lot of problems to Kenyans who live around them. I wonder why the Minister said that they are looking into ways of allowing refugees to live where they want, when, at the same time, we are talking of creating the post of a Refugee Camp Manager.

Mr. Temporary Deputy Speaker, Sir, I am not for the idea of allowing refugees to live where they want in this country. That can be very dangerous to the citizens of this country. Instead of that, I would rather we first manage these refugees in the camps over a period of time, vet them properly in terms of economic status, and professional status and then let them out gradually over, maybe, a period of two to three years after staying in the camps. If we make a provision of allowing the refugees to live where they want, we shall have a conflict of interests and artificial refugees created across our borders. People would like to migrate to Kenya because it has very favourable laws of allowing refugees to live in the highlands or the lowlands; wherever they wish. So, we have to revisit the idea of allowing refugees to stay where they wish.

Mr. Temporary Deputy Speaker, Sir, it is actually very important, at the same time - since these refugee camps are in various districts - for the Government to delve much into the management of refugee camps. We should not leave this only to NGOs. We should be able to know what is happening in the refugee camps, how many women and children are in the refugee camps, their status in terms of nutritional levels, disease control, *et cetera*. We should not let the refugee

camps belong to the United Nations.

Mr. Temporary Deputy Speaker, Sir, Section 8 seeks to establish a Refugee Appeals Board, whereby, after application to the Commissioner for Refugees has been declined, then the refugee is entitled to an Appeals Board. The Minister must look into a way of trying to de-standardise this Board, because its creation is more or less standard. It is made up of the same people we spoke about; a person appointed by the Minister, a nominee of the Minister in charge of internal security, the Attorney-General, Department of Immigration *et cetera*. This is the same standard procedure that I have been talking about.

Mr. Temporary Deputy Speaker, Sir, we should be able to kind of give it a local outlook in terms of having elders from the religious fraternity sitting in the Appeals Board.

Lastly, I would like to comment on Clause 19 of this Bill, which provides for the expulsion of refugees and members of their families by the Minister in charge at that time. This section could easily be misused and abused. It says:-

"The Minister, in consultation with immigration officials, can expel a refugee and his/her family out of the country when they feel it is okay with them."

As long as somebody has come into this country as a refugee, definitely, there must have been a problem in his mother country. There is need to refer the issues of expulsion to a board, even if it means the Refugee Appeals Board as provided for in Clause 8. The Minister can refer the matter to a board before somebody is expelled out of the country. There must have been a reason touching on his life or otherwise, that has made him seek refuge in a neighbouring country. The Minister should look at Clause 19 with a view to expanding the scope of the persons who are going to decide who will be expelled, and at what time.

Mr. Temporary Deputy Speaker, Sir, this is a very welcome Bill which deals with people's problems. We are accommodating them in our own house, but we should be able to refine this Bill. We should not allow it to strangle us. We should not make laws for other people that are going to be risky to our own people. With those few remarks, I beg to support.

**The Assistant Minister for Regional Development** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to speak on this very important Bill. Just like the previous speaker, I would like to congratulate the Minister for bringing this Bill very timely to the House. The problem of refugees is a very old one. We know for a fact that, it was brought about by various countries who saw the need to unite in human suffering. Not very long time ago, Germany had a big problem on how to treat asylum seekers. People were being forcefully deported. There was compulsory deportation of asylum seekers. It became such a problem that even school children, in the hope of saving their classmates who were Kurdish and had settled in that country, would write protest letters to the Minister. Yet, the deportation continued. At some point, Frankfurt Airport was known as the "deportation airport". Once in a while, the country would stir up when an asylum seeker who has been mistreated committed suicide because he or she did not want to leave. I am saying that the problem of refugees is important and it is a human suffering problem. That is why Clause 3 that has been brought by the Minister in this proposed Bill is welcome, because it helps people to address the issue of those who are suffering in their homelands because of their political opinions or religious persecution, so that they can get refuge. The Minister should be congratulated for what he has done. This Bill, in particular, brings Kenya closer to the international community, because by passing this Bill, we seek to domesticate what is in the international law.

In essence, Clause 15, which I think, is the most important clause in this Bill, brings into fore, the particulars of the effects of the conventions that we seek to adopt, and specifically, it is the 1951 Convention, which was amended in 1967. It deals with the status of refugees and stateless persons. It is acknowledged in the world that the question of refugees needs international co-

operation for it to be solved. So, by Kenya domesticating this law, we shall be joining the world of the countries that respect human life and the United Nations conventions. For a very long time, and although we had ratified these conventions, we had not domesticated them, and our Constitution, as you very well know, does not allow international conventions or international treaties that have not been domesticated to be made part of the laws of this country. So, the Minister must be congratulated for this Clause 15, which brings Kenya into the world community of nations, and we should pass this Bill.

Some people may argue that this law has its genesis in 1951, long before Kenya became independent. But I would ask them to remember that it was in Addis Ababa in 1967, when the Heads of State, including the Kenyan Head of State, ratified, through the Organisation of African Unity (OAU), the effect of the 1951 Convention. So, we have owned this law and we have become part and parcel of the world community of nations under the United Nations.

Having said all that in support of the Bill, and in congratulating the Minister for the efforts he has made, I believe there are some few issues that the Minister needs to refine as the Member who spoke before me stated. First, if we look at Clause 15 of this Bill, it gives power to the Minister to establish designated areas, or the transit areas. Once a refugee comes to this country, where should he go? It gives the Minister the power to establish these transit centres. But up to now, it is not clear from this Bill, when these transit centres will be designated by the Minister. I think it would be necessary that these transit centres be established upon this Act coming into effect. It is very important because Kenyans need to know at exactly which points by law, are refugees supposed to be found in this country. If we left it open as the Member who spoke before me said, it would be dangerous for this nation; it would be dangerous to have refugees roaming all over this country. I propose that these transit centres be established within the shortest time after the passage of this Bill, and Kenyans must be informed of their existence.

Mr. Temporary Deputy Speaker, Sir, Clause 10(1) states:-

"Any person who has entered Kenya, whether lawfully or otherwise, and wishes to remain within Kenya as a refugee in terms of this Act shall make his intentions known by appearing in person before an authorized officer immediately upon his entry, or in any case, within seven days after his entry into Kenya."

Clause 2 defines an authorised officer to include the Commissioner, the Provincial and District Commissioners, District Officers, immigration officers and police officers at the rank of inspector or above. I think this definition is too wide and it may not be easy for the Director for Refugees to keep proper records of who is entering this country. As much as it is important to know where the transit zones are, the "authorised person" should be a DC, because they are very effective in communication. If this is done, it will be easier for the Director of Refugees to keep track on the persons who come into this country as refugees within seven days upon their arrival. An "authorised officer" should not include everybody. If we say that an authorised officer will be a police officer at the rank of inspector or above, those officers will be too many. How will we know the refugees who come into this country if DOs will be the authorized officers? The Minister should look into this clause afresh and define who the authorized officers ought to be. I propose that the authorized officer should only be the DCs, or the PCs, where it is necessary, for purposes of putting records straight.

Mr. Temporary Deputy Speaker, Sir, if we accept and operationalise this protocol, we will be placing certain economic burdens on our people. Article No.22(1) in the Second Schedule states that:-

"The contracting states, including Kenya, shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education."

Mr. Temporary Deputy Speaker, Sir, this House passed a Bill to provide for universal and free primary education to all children in this country. Are we then saying that the children of refugees who will come into this country after the passage of this Bill will also be entitled to free primary education? Can we afford this kind of economic burden? These are some of the issues which the Minister should address. We have already said that the Treasury is shouldering a heavy economic burden on the provision of free primary education. At the moment, there is no budgetary provision for that. We need to introduce a clause which will make it flexible for us to provide what we can afford as a nation.

This is not limited to the provision of free primary education, but it extends to environmental degradation. Many of the refugee camps which are being set up are affecting our environment. What do we gain from that, as a country? How will the Minister address those issues *vis-a-vis* the locals who live there? We need to introduce a clause which will address the question of environmental degradation that comes directly as a result of the influx of refugees, despite our ratification of this accord.

Mr. Temporary Deputy Speaker, Sir, it is also stated in Schedule II of this Bill in Article 17, that the refugees are entitled and must be treated on the same level when it comes to wage earning and employment. Is this fair to the nationals of this nation where we have no jobs? Another clause ought to be introduced to protect our own nationals in this country.

The same thing goes on in Article 16 of the same Schedule. It talks about access to courts. The refugees are allowed to go to these courts and yet they do not participate in the payment of our taxes as they should. We pay our judges using our taxes, and if we get an influx of refugees, how is our country going to bear the burden that comes with extra taxation and economic burden? I think it would be important for our Minister to re-think the important clauses that are definitely going to protect our citizens.

If we look at Clause 15 of the Refugees Bill, it requires that a refugee or asylum seeker who has been granted status of refugee within this nation be subject to all laws enforced in Kenya. This is okay but the previous Official Responder pointed out the proliferation of small arms into this country through refugees. We need to look into ways and means of making sure that these areas which will be designated by our Minister do not serve as porous points for infiltration of small arms into the country. It would not be enough to say, as is proposed in Clause 15, that refugees shall merely be subject to all the laws enforced in Kenya. We need, for the sake of the nationals of this country and for the sake of protecting these areas where our nationals will be bordering the refugee areas, to have power within this clause to monitor refugee movement and to call them and ask for inspection. This will enable us to get into those camps and look at who is having guns or stuff inside the camp that can harm our people. It will also help us to know who is trading in these guns or is having illegal stuff within those camps. We need to make certain amendments through a reasonable clause, that will allow this nation to look inside and protect our citizens. The first obligation of this Parliament is to the nationals of this nation, and it is important for us to address those concerns.

I have again looked at Clause 8 which talks about the Refugee Appeals Board. As the Official Responder said, he took issue with the composition of this Board. Essentially, this Board would be sitting after the initial Refugee Status Board has sat to determine whether a person should qualify as a refugee. If he is rejected at that point, that asylum seeker will have recourse to the Appeals Board, which is provided for by Clause 8. In my humble opinion, the composition of the Refugees Appeals Board ought to reflect the duties that this board will be carrying out. Its duties would be to review the evidence that has been presented before the previous Refugee Status Committee. If its work is to review the evidence that was presented and rejected by the previous committee, it means, to me, that it will be work that involves evidence taking. In addition to what

the Official Responder has said, I propose that we have more legal-oriented minds. We need to create an extra post of a Judge of the High Court to sit in this board.

Mr. Temporary Deputy Speaker, Sir, it is stipulated here that the first chairman would be an advocate of the High Court with not less than ten years experience in legal matters. He would be appointed by the Minister. I must confess that I have a legal background. However, you will find that there are lawyers who have for the last 20 years practised in court, but have only done criminal work, civil work or conveyance work. If we will appoint a chairperson just because he is a lawyer of not less than ten years' standing, we might end up appointing a criminal law expert to stand in this committee. I propose that an additional requirement be provided that he or she must have experience in refugee law or international law.

Mr. Temporary Deputy Speaker, Sir, as far as the operation of this board is concerned, I would like to propose an amendment. This is because the experience we have had in the past is that when tribunals are established by law, they are always crippled by lack of finances and inefficiency. A very good example would be the Rent Restriction Tribunal which operates under the Ministry of Roads, Public Works and Housing. That tribunal, has a very small budget. It is not considered as a very essential department within the Ministry. This hampers its operation in the sense that it is not able to sit throughout the country as we expect of it. In fact, they have problems in terms of when to sit. They operate as a circular court. The same problem goes to the Corporate Tribunal that was established by the last Parliament. This tribunal is also hampered by the same problem. They do not have enough funds. They depend on the Ministry's budget to be given something small to operate on. I hope the board will have their own money which will enable them to operate efficiently.

Therefore, I propose that a proper budget be set aside for this particular board. If we are serious about involving quality people to sit in this board and to make decisions, we must come up with a budget for it to operate properly. It should be independent of the Immigration Department and I would pray that they be taken seriously. I say so because refugee rights have become an important issue of international law. Even as we domesticate this Report, we will only be taken seriously if the proposed Refugee Tribunal is taken as seriously as the law we are going to pass.

Looking at this Bill, I foresee hon. Members bringing several other amendments. In conclusion, I would say that we need to be careful before we pass this Bill.

**The Temporary Deputy Speaker** (Mr. Khamasi): Order, Mr. Assistant Minister! I must admit that I am enjoying your contribution so much. But what is your position *vis-a-vis* the Government when you propose so many amendments on a perfect Bill brought by the Government?

**The Assistant Minister for Regional Development** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I have not proposed so many amendments. I think I have only proposed about four or five amendments. We need to refine this Bill, so that the law that we shall pass shall be a good law. It should not be a law that, immediately afterwards, hon. Members will say: "This law is not good for the country."

**The Temporary Deputy Speaker** (Mr. Khamasi): Will you approach the Minister to bring these amendments?

**The Assistant Minister for Regional Development** (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, I have even put the proposals in writing. I take this as a very serious duty on my part as a legislator.

With those few remarks, I beg to support.

**Mr. Kimathi**: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to contribute to this contentious Bill.

It is very pathetic that this House keeps on endorsing Bills even without reading through them and comparing them with similar Bills globally. The situation in this country is very

sympathetic. There are thousands of university graduates and secondary school leavers who are unemployed. In my constituency, there are so many secondary school leavers, trained teachers, diploma holders in various professions and university graduates who are jobless. Unfortunately, I am expected to support this Bill and allow an influx of people from countries where the civil wars have ended, but their people are not interested in going back. I am being asked to support this Bill so that, upon its passage, those people can live in this country in comfort instead of going back to their countries as our children remain jobless. If hon. Members endorse this Bill without introducing major changes to it, it will be too bad.

Mr. Temporary Deputy Speaker, Sir, those who came from Uganda when that country was at war, for instance, can now go back. There is no more fighting in that country. The various faction leaders in Somalia are now negotiating for peace. So, Somali refugees can now go back to their country. Likewise, in Tanzania, there is no war. Therefore, I will not support the passing of such a Bill to allow refugees to come and do business in this country when Kenyans are closing down their businesses. Why should we allow refugees to come into this country and take up jobs? Since refugees started coming to Kenya, the rate of crime has gone up. Also, corruption became rampant. Many refugees now hold Kenyan passports and national identification cards.

Some hon. Members who married ladies from the United States of America and the United Kingdom cannot easily acquire Kenyan citizenship for them. However, when refugees come into this country, they are given Kenyan citizenship and issued with national identification cards. That is very pathetic. Therefore, I am not going to support this Bill. I oppose it in the strongest terms. We cannot let refugees take up our people's jobs and business opportunities. We could rather adopt the American concept, where refugees are kept in the camps. Those who want comfort should apply individually for asylum. We can only allow those who would participate in activities where taxation can be effected. Otherwise, we are not going to ask Kenyans to continue paying taxes to provide free primary education to refugees. The NARC Government has even promised us free secondary and university education.

University education in Kenya is almost free, considering how much we pay for education overseas. Our university education is cheap and reasonable. I am sure that when the economy of this country picks up, the Government will be able to provide free secondary education. Our per capita income will not grow if we bring in 20 million citizens of other countries. Even our toilet doors are closed and, sometimes, you have to ask for a key. We cannot keep our borders open so that everybody can come to Kenya, do business, get free education, food and medical services. We pay a lot of money to buy drugs. They are very expensive. We buy drugs, pay a lot of money to our teachers, for education and security. We cannot incur expenses on external citizens who are not from this country. We need a lot of money to pay our policemen and doctors.

With those few remarks, I beg to completely oppose the Bill.

*(Laughter)*

**Mr. Kipchumba:** Thank you, Mr. Temporary Deputy Speaker, Sir. Personally, I want to support this Bill. I want to agree with my colleagues who have said that this Bill should have been enacted a long time ago. I have worked in refugee camps and the conditions there warrant the Government to look at the conditions in which they live. I want to look at the refugees' problems in five perspectives; that is, economic, social, political, environmental and security.

When the first batch of refugees came from Somalia in the early 1990s, many of them landed in Mombasa. The rent in Mombasa sky-rocketed because many refugees that came into this country stayed in town and they came from very rich families. Of course, those from poor families



were taken to refugee camps around Mombasa. It is with that in mind that we must re-examine designated areas where the refugees are kept. Refugees come with a lot of social problems. They run to countries with peace. It would be very unfortunate if they came looking for peace and in return, we do not allow them to enjoy it. It would be better if they stayed in their countries! That is why the conditions that the refugees are kept in our country must be far much better than they left in their countries. But that has its own implications. I personally witnessed refugees in the camps who employed our own brothers and sisters in this country to wash their clothes and perform all manner of activities because they were economically better off than Kenyans.

Mr. Temporary Deputy Speaker, Sir, that is why we have to look at the whole issue because we cannot have refugees in our own country employing our own brothers and sisters to work for them. It reflects very negatively on this country. That is why I would have liked to see a situation where there is a proposal that whenever the United Nations High Commission for Refugees (UNHCR) assists refugees, it must, at the same time, give the same or equivalent assistance to Kenyans, and especially those who live around the camps so that we do not have a situation where inside the camp, there is merrymaking all-year-round, and outside the camp, our Kenyans starve to death in our own country.

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

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

Mr. Temporary Deputy Speaker, Sir, I would have wanted refugees to be designated in a few identified areas in this country. Why? Because the first time that refugees came into this country, some were kept on Mombasa Island. A few were taken to to the periphery of Mombasa. When the refugees were moved to Marafa and other areas, the only materials that UNHCR could provide at that time, were basically tents. That is why my proposal is that these designated areas must be built to good standards that can provide suitable accommodation to refugees. Those areas must have good standards of hygiene. I remember, when some of the 60,000 refugees came to Mombasa, there was an outbreak of cholera and you realise what happens if there is an outbreak of cholera in a camp. Refugees, by their very nature, become very difficult to be kept in the camps and, therefore, they intermingle with other Kenyans, and what happens? The disease spreads all over the country.

Mr. Temporary Deputy Speaker, Sir, my problem with this Bill is that the Government would like to inherit all the activities that were previously done by UNHCR and other related organisations. The UNHCR is a very old arm of the United Nations (UN) which has dealt with refugees for a very long time and, therefore, it is very experienced in terms of handling the refugees. If you look at the structures of UNHCR, apart from the department of ensuring that there is enough food, they have other departments that deal with protection, health and so forth. I would have wanted to see in this Bill, a proposal that the Government can designate some of the duties of UNHCR to a specialised institution or authority but, of course, that authority must still report to the Government, so that we do not have a situation where the Government can inherit a lot of expenditure in terms of paying a camp manager, who I know, previously, was trained and paid very well by UNHCR.

Mr. Temporary Deputy Speaker, Sir, like I said, the Government of this country has not handled the refugee problem very well. If it had, then there would not have been very many

complaints from Kenyans, and that is why this Bill must seek to regulate the refugee problem in this country. I do not agree that whenever there is peace in a given country the refugees must go back. Refugees do not run away from their countries because of the effects of a physical war. Many of the refugees who run away from their countries do so because of political persecution. When there is no war, for example, in Uganda, it does not mean that there is total peace in the country. What would happen in this country if we were to say that we want to expel the refugees in this country? What will happen along the line? God forbid, if such a thing was to happen in our country, we shall be rejected by all our neighbours.

Mr. Temporary Deputy Speaker, Sir, we must ensure that human beings, irrespective of where they come from, are assisted with all means that we can afford. However, we must never stretch our resources. We have done that before. My biggest problem is that, when you put 60,000 refugees in one place - they use firewood and so they must clear forests - they become a source of poor sanitation and they pose insecurity and so on. I am aware that when the refugees went to North Eastern and parts of Turkana, they cleared all the vegetation that was within their reach.

The Government must petition the United Nations High Commission for Refugees (UNHCR) so that they provide the necessary facilities required to ensure that the refugees stay in the camps well. Why should the UN agencies not provide money so that refugees are able to use, for example, gas and other sources of energy as opposed to fetching firewood? We know that Kenyans are not allowed to cut trees, but refugees destroy the trees with impunity.

Mr. Temporary Deputy Speaker, Sir, many refugees complain that we are refugees in our own country. Indeed, we are. Like I said before, when our brothers and sisters are employed by the refugees, it is a big shame to this country. If you read through this Bill, you will see that it says that the Government must protect refugees. But it does not say that Kenyans must be protected from the actions of the refugees! It must be *vice versa* too. There is no way, we will protect the refugees when they cannot ensure the safety of Kenyans. We have seen refugees fight Kenyans in this country. We have seen wars in camps escalating towards the neighbouring countries, where most camps are situated. The Government must, at all times, ensure that there is adequate security in refugee camps. I am not opposed to refugees being allowed to travel out of their camps. Even so, many of these refugees have acquired identification cards and passports.

The problem of refugees must be addressed squarely. Part of the problem is to do with the fact that refugees in the past were not given any documents. I am happy that this Bill seeks to ensure that every refugee has a card or some form of identification, so that whenever they go out, they must seek permission. There is no way we can allow 10,000 or 30,000 people to invade small towns like Lodwar and others, only to cause havoc.

Mr. Temporary Deputy Speaker, Sir, when I read through this Bill, I realised that there are some sections that require amendments. When it states that a manager must manage the refugee camp in a very environmentally sound manner, I find that to be very vague. I do not understand what that implies. If we want to ensure that our environment is actually protected, we must ensure that refugees are given the necessary facilities. This will stop them from going out of their camps. They should be provided with water, health facilities and high levels of sanitation. These facilities must be provided inside and outside the camp, so that all the refugees and Kenyans in our country can enjoy equally.

Mr. Temporary Deputy Speaker, Sir, as I said before, the Government must designate authority to a specialized unit of the United Nations High Commission for the Refugees, so that they can provide people like camp managers and pay them a salary. Clause 18 reads:

"The Commissioner can revoke the recognition of a refugee".

I think it would be unfair to give just one person the authority to revoke the recognition of a

refugee. What the Commissioner should do is to refer the matter to the committee or to advise the authority so that the matter can be looked at by a board rather than one person. I am opposed to the management and determination of activities by individuals, where one person just makes a decision, and that decision could be final. You are talking of revoking the recognition of a person who has run away from his country, and you are telling him that Somalia is fine today and that he must go back within seven days. In as much as we can come up with a Bill, I think it is only fair that that board makes the recommendation to the effect that, "now Somalia is safe, and, therefore, you can go back", and give him a chance to decide for himself why he should not show cause why he should not be repatriated. Clause 19 still says that a Minister may repel a refugee on his own volition. He just decides that this refugee, because of certain reasons, can now return to his country. Like I said earlier, I am opposed to a situation in which an individual decides the fate of one person. Therefore, I would request that that clause be amended so that it is a board which will be making such a decision.

Mr. Temporary Deputy Speaker, Sir, The establishment of an appeals board is a very noble idea, therefore, I welcome the formation of such a board, because if you are wronged, then you have somewhere to channel your grievances. But if you look at the composition of the committee, I do not see the nomination of a person from the Office of the Vice-President and Ministry of Home Affairs. I do not know whether that was an omission, because I thought that issues to do with refugees specifically touch on the Office of the Vice-President and Ministry of Home Affairs. Therefore, it is my view that at least one person should be included from the Office of the Vice-President and Ministry of Home Affairs.

Mr. Temporary Deputy Speaker, Sir, when you look at the issue of the determination of who is a refugee, or who should be included in the status of a refugee, it is a very difficult task. I know that in the past, we have admitted people who had committed crimes against humanity into this country as refugees. We have heard of complaints about the Government harbouring criminals from Rwanda and other countries. We must prevent a scenario where we give refugee status to somebody who has committed crimes in his own country. That is why that committee must be very credible indeed. As I summarize, my main concerns are to ensure that the refugees stay in an environment which is not more comfortable than that of Kenyans. Refugees must behave in a manner that does not jeopardise their relationship with our fellow Kenyans. There must be a clause in the Bill to provide for action to be taken against any refugee who causes problems in the country.

Mr. Temporary Deputy Speaker, Sir, we know that America and other European countries admit refugees every year, especially those who are skilled. They are given asylum in those countries. We should also make use of professionals in refugee camps. We know that there are professionals in refugee camps such as doctors. When the Somalis arrived in this country, within two or three months, all the doctors and professors were given refugee status in the United States of America. We must never overlook the fact that some refugees can be of some help in this country. The Americans do not take those with very low education, but professionals. They make use of the professionals for the betterment of their countries. That is why some countries like America have prospered.

There are complaints that refugees do a lot of business in this country. We must safeguard to ensure that they do not interfere with the businesses that ensure the daily survival of Kenyans.

With those few remarks, I beg to support.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, I want to thank you for giving me this opportunity. The issue of refugees in this country is very important. I am glad that the Government is trying to address this problem. Refugees came to this country in the early 1990s, and there were basically no guidelines on how they would integrate with the local communities.

From the outset, I am extremely disappointed that the Refugee Bill is talking about recognition of refugees, which I have no problem with, but more fundamental, their protection. You are protecting refugees against who? The host communities, who happen to be Kenyans. I come from one such community; a community that is impoverished, lacks adequate security and does not meet the basic fundamentals of human rights as per the UN Convention on Refugees. That has been a source of conflict. It must be made absolutely clear that our local communities have no problem with the refugees. Our problem is the administration and the management of the refugee camps in our areas. The Government appropriates land without the consent of the local community. It provides services with the UNHCR assistance to refugees when the local communities are looking across the fence with no food, when a refugee is getting a full monthly ration.

There is plenty of water in refugee camps, when outside the camp, there is no water for the local community. The refugee problem brings an acute dimension to poverty in this country. When we talk about a Commissioner, there should be a provision for a local committee to deal with this. The local DO is more responsible for the security of the refugees at Dadaab and Kakuma Refugee Camps. As I speak now, there is a Land Rover full of General Service Unit (GSU) officers. Those officers curtail the freedom of movement of our people within the town. They do not want them to go to those camps. You can imagine of a scenario whereby a young boy asks the local priest how he could become a refugee. We, as a supreme Parliament of this land, sit here to recognise refugees, without recognizing the fundamental problems our people are facing. I think we are cheating ourselves.

Mr. Temporary Deputy Speaker, Sir, I appreciate the context in which refugees come to this country. I also appreciate that Kenya has remained a peaceful country although there is doubt about our peaceful nature. At least, compared to the rest of Africa, we have remained peaceful. These refugees have run away from political conflicts in their countries. As we discuss this Bill, we should ask ourselves: What are the fundamental causes of the refugee influx? It is politics.

Mr. Temporary Deputy Speaker, Sir, ten days ago I had the opportunity of taking a few hon. Members to Turkana District. All of you were invited, but I want to appreciate those ten hon. Members who visited Turkana District. We visited Lockichoggio Sub-District Hospital where we saw patients with amputated legs. We went to the Kakuma Refugee Camp where we witnessed the registration process and the food ratio the refugees were being given. However, even with the local input, we were only able to see the refugee leaders, but not the local Turkana leaders. One outcome of that trip was that, we, as hon. Members, should at least stop witch-hunting and politicking and focus on the important issues. We do not want our people to become refugees. Mr. Temporary Deputy Speaker, Sir, I would like to support this Bill because we want to get a structure of managing refugees in this country. However, I want to oppose the way it has been drafted. I will only support it fully with substantial amendments, particularly if it will recognise the needs of the local community.

This Bill talks of refugees getting identification cards. Are we referring to the national identity cards? I hope not. I hope these will be special passes. We should just issue refugees with passes so that when they are moving around the country, they can be recognized. As I speak now, most of the time they move around, but the police officers extort money from them. Our transporters also charge refugees more money. Must there be a Bill for the Government to take some specific actions? We have raised these issues. If refugees have come here, let us accommodate, and be hospitable, to them. They should be allowed to move freely and pay the normal fares.

Two years ago, we had a situation where a woman was killed in cold-blood by the Kenyan security forces because she was protecting her own firewood from being taken to the refugee camp. The local administration could not say anything. I went there with some hon. Members to see what

had happened. At that time, I was an Assistant Minister. This Bill shows us where our Government machinery is. It is giving them that legitimacy. We can protect and serve refugees, but not the local Somalis or Turkanas. Could this Bill also specify that we establish refugee camps in some of the fragile environments? Why can we not establish refugee camps in Thika, Tetu or other nice places in Central Province?

Mr. Temporary Deputy Speaker, Sir, you cannot appreciate the real difference between being a refugee and part of the local community. This is because, a refugee is given protection, shelter, nice houses are built for them, and, in fact, we are even now buying food from the refugee camps.

According to the UNHCR International Report in West Africa, the UNHCR staff once raped the refugees there. It is a very corrupt agency. They are blind to the situation of the refugees and even to that of the local people. We have told them as part of the UN, they can use their opportunity to see the reality on the ground and be able to be like the other agencies - like the UNDP and be able to support the local people. We are talking about sustainable development. These are concepts that the UN is promoting. However, when they come to a fragile environment, they harvest firewood. What is supposed to happen to the dry lands?

We are talking about the desertification process being extended right inside Kenya. We have schools being taken over by refugee children because of the corruption that is in this country. A refugee child can take Kshs1,000 to the headmaster of the local school and get admission. As you know, all over the world, there are refugees. The Lebanese are in West Africa, and, they are there because of the threats. As local people, we have to attend funerals, and weddings. The refugee children will always be top in the exams, and take our quota system of the national schools.

Last year, I visited my former Primary School, Kalokool Primary School. In the last two or three years, the top students who joined national schools, had names like Garang, Macher and those other names that you know of. That defeats a stated Government policy, whereby we are trying to get our own children to go to the national secondary schools. It is the local community which actually requires protection from the refugees.

We have seen a situation where the insecurity has been exacerbated because the refugees fight in their camps. They carry their problems to the camps and start fighting among the different refugee groups and extend it to the local community. Given the nature in the developing countries in Africa, they are very happy now. The Minister is not being truthful when he says that the Attorney-General signed that the enactment of this Bill will not entail additional expenditure of public funds. He is lying because we are providing for the Commissioner of Refugees. Is that not a new establishment?

**The Temporary Deputy Speaker** (Mr. Poghio): Order! What did you say? Can you withdraw that unparliamentary word?

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, no one raised that concern. You should allow some things to pass.

**The Temporary Deputy Speaker:** (Mr. Poghio): Mr. Ethuro, just withdraw.

**Mr. Ethuro:** Mr. Temporary Deputy Speaker, Sir, okay. I withdraw. The Attorney-General, Mr. Wako, is not being truthful when he concludes that this Bill will not entail additional expenditure of public funds. If he cannot be honest from the beginning, how do we trust the clauses?

We are just giving names and positions, and you want to tell me that an establishment that did not exist, we have an appeals board and the members will be paid salaries and even sitting allowances. All a refugee needs in this country to get legitimacy is to acquire a wife. This Bill

says that if a refugee has a local spouse and children who have local identities, then that refugee can almost become a citizen of this country. Are we really serious? We are saying refugees should get jobs, and our NARC Government promised to create 500,000 jobs. Are those jobs for refugees or Kenyans? These jobs are for Kenyans. The moment we start contesting with the refugees, we will lose out. These are the problems that I see in this Bill.

I went to a national school and I know of some refugee teachers especially from Uganda, who are good teachers. They taught us well, unlike our own teachers who probably carry out *matatu* business. We can appreciate them in a certain context, but it should not be blanket. We now have refugees owning businesses in this country. That changes the local political equation around some of these areas. Kakuma area has a population of about 30,000 people, but the refugee population is about 90,000. So, you have one local person to three refugees. We are reduced to a minority and those people can easily run over us.

The Government should help us sort out these problems as we accommodate refugees. We should have local associations that ensure that at least the benefits accrued from these resources go direct to the community and not to other people. The UNHCR will tell us that they were channelled to a certain direction because of competitive bidding. These are areas where the Government should help us. It is part of empowering our local communities and giving Kenyans a decent standard of living, especially in areas where we have located refugees. There should be a limit to how many camps we can have in one place.

We have three camps in Kakuma and one in Dadaab. We held a leaders meeting and decided that the third camp should be taken to another location because we will have that place full of graves only in 50 years to come. We will have that place completely deforested because it is in a fragile environment.

I am happy that the Assistant Minister for Environment, Natural Resources and Wildlife, Prof. Maathai, is here because these issues should be of concern to her. This departmental compartmentalisation of refugees should cut across Ministries. When Prof. Saitoti was the Vice-President and Minister for Home Affairs, during the time that old widow was killed, we went there as leaders, and the policemen shot at us. When we came back, the Government was very responsive. Immediately thereafter, both the Permanent Secretary and the Minister were removed. I hope that the new Vice-President and our good friend from another minority group will appreciate the problems we are encountering as pastoralist communities. When you bring these refugees there, we suffer the pain more than any of you. When Government Ministers are ferried into the refugee camps by the UNHCR helicopters in the morning, they are out of the camp by 4.00 o'clock. What do they know? They do not even want to listen to us because they want to serve the UNHCR. You cannot serve foreigners better than your own people. There is no refugee who is going to protect the rest of us. We want to address this issue from the Floor of this House. We want to take advantage of the presence of refugees to benefit our people.

I talked about firewood, shelter and water. One time, the Australian High Commissioner accompanied us on a visit to the Kakuma Refugee Camp. We then managed to get him out of the camp to see the deteriorating situation of the local community. He was able to get one additional borehole for the local community. That demonstrates to us that the relevant Ministry and the UNHCR have no interest in the local people. They do not want to provide for the plight of the local people. These are the small needs of our local communities, and it would suit very well with the Government's plan of developing this country.

Mr. Temporary Deputy Speaker, Sir, the other issue of concern to the local people hosting refugees is employment. You will find that even menial tasks like being a gatekeeper or a watchman are given to a refugee, and yet this is the natural job for the Samburu, Maasai and Turkana. You find

that in these areas, even these natural jobs have been denied our people. For example, you will find a security company like RADAR being flown all the way to the place. They are a bit unfortunate because our people will go and chase them away. Does it mean that our people cannot even be employed as messengers, or be a night guard for those who have fun in swimming pools when there is no water for the local people? Is that asking too much?

Mr. Temporary Deputy Speaker, Sir, this Parliament needs to be sensitive to fellow Kenyans who are outside those camps, as much as we want to help the refugees who are in the camps. The refugees should be made to remain inside the camps. The UNHCR has assumed that it is easy to integrate refugees with the rest of society. This is not possible. We need pride as a nation. We need a sense of identity as a community. If we are going to integrate 90 people with 30 people, is that integration or assimilation? Very soon, you may never get an ethnic group in this country known as Turkana or Somali. At least, the Somali have an entire province whereas we have only one district, and these refugees could easily overrun us.

Mr. Temporary Deputy Speaker, Sir, I do not know what happened to the department which used to give work permits to expatriates. You will find that most of the staff in those camps are very young Wazungu with little experience, who come to work there in very senior positions. They do not have any understanding of the countries the refugees hail from. But because their brothers are the ones funding, they are brought here as if our own Kenyans cannot work in those camps. Kenyans have time and again proved excellent. When I used to work for Oxfam, we were operating in the entire Eastern and Central Africa and there were Kenyan engineers in Congo, who were doing a good job. Everywhere I went, I found that there was a Kenyan professional who was doing a good job. Why are we not employing them in our own country? These are the issues which I said should be addressed by more Ministries to resolve this refugee problem. People should be very careful when they are giving out work permits. Which are these jobs that Kenyans cannot do? We could get one expatriate to represent the UNHCR at the sub-office, and the rest of the employees should be Kenyans. That is one way we can create the 500,000 jobs per year.

Mr. Temporary Deputy Speaker, Sir, most of those refugees do not stay in those camps. For example, when you are told that there is going to be a head count, all the vehicles going to Lodwar are usually very packed. I do not know where the refugees come from. They only come for the head count and then they abandon the camps. The UNHCR should contain this situation, because if those refugees cannot stay in the camps, then they have better alternatives elsewhere. They should not be counted as refugees. I do not see why we still have refugees from Uganda, Burundi, Rwanda and Ethiopia in our camps. These are fairly stable countries. Let us not just keep people because they have told us that the situation in their countries is not good. We should also assist them to go back.

I would like to applaud the American Government for somehow having realised that there are people known as Somali Bantu. They have a programme for them, where they can be in the camp for maybe one or two years, and then they are flown to America. Within two years, we will not have any Somali Bantu in this country. The Government should go out of its way to look for donors or countries who can assist us in trying to help some of these people. In the long run, we need to settle these refugees.

Mr. Temporary Deputy Speaker, Sir, in the case of Uganda, surely, it is part of East Africa. I do not know why we should keep Ugandan refugees when we are busy having meetings with President Yoweri Museveni. We should talk to him to take his people back. I know for a fact that every refugee would like to go back to their homes because this is not their home. We should force them to go back to their homes because this is not their home.

Mr. Temporary Deputy Speaker, Sir, I want to finish by saying that there are economic and political refugees in this country. If you remember the concept of internally displaced persons, about

300,000 to 500,000 people have not been relocated back by the Government. Therefore, the Government has no business creating refugee camps in this country, if it cannot take them back to where they came from. They are all over Naivasha, Nakuru, Turkana and Laikipia. The Government needs to have a programme to settle those people where they originally came from.

With those few remarks, I do not know whether to support or not. Thank you.

### QUORUM

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

**The Temporary Deputy Speaker** (Mr. Poghisio): I agree with you that there is no quorum. Ring the Division  
Bell for five minutes.

*(The Division Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Poghisio): Order, hon. Members! Due to lack of quorum, it is now time to interrupt the business of the House. The House is, therefore, adjourned until Tuesday, 25th November, 2003, at 2.30 p.m.

The House rose at 7.05 p.m.