

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th November, 2001

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.467

APPOINTMENT OF SUB-CHIEF FOR MIHANGO

Mr. P.K. Mwangi asked the Minister of State, Office of the President:-

- (a) whether he is aware that the position of the Sub-Chief, Mihango sub-location of Kambiti Location, has been vacant for the last three years; and,
- (b) when the post will be filled.

Mr. Deputy Speaker: The Minister of State, Office of the President is not in? We shall come back to that Question later on!
Next Question!

Question No.675

RELEASE OF BODIES FOR RE-BURIAL

Mr. Muchiri asked the Vice-President and Minister for Home Affairs, whether he could consider releasing the bodies of Dedan Kimathi, Nahashon Isaac Njoroge Njenga, Hezekiah Ochuka and, Pancras Okumu to their relatives for reburial.

The Assistant Minister for Home Affairs, Heritage and Sports (Mr. Osundwa): Mr. Deputy Speaker, Sir, I beg to reply.

The late Dedan Kimathi, a freedom fighter who led the struggle for the liberation of our country, was executed by the colonial Government and his remains were interned in an unmarked grave among many other graves and cannot be traced because the colonial prison authorities never left any trace that can help us to identify his grave.

As for the other three, namely; Nahashon Isaac Njenga Njoroge, Hezekiah Ochuka and Pancras Onyango; they were executed for offenses ranging from treason to murder. They were convicted by lawful courts of competent jurisdiction and cannot be released to their next of kin.

Mr. Muchiri: Mr. Deputy Speaker, Sir, I requested the Clerk of the National Assembly to direct this Question to the Office of the President, because under the law, it is the President who directs where an executed person is going to be buried. It is only the President who can also revoke that authority. The Office of the Vice-President and Ministry for Home Affairs has no such authority under the law. They are just custodians who keep what they have been given. Has the Office of the Vice-President and Minister for Home Affairs requested His Excellency the President to give the direction as to whether he could agree, on humanitarian grounds, to release the dead bodies of those who were executed to their relatives?

Mr. Osundwa: Mr. Deputy Speaker, Sir, under the Prisons Act, Cap.75, Section 332, the Office of the Vice-President and Ministry of Home Affairs can only execute orders and bury. But there is nothing in the law to allow my office to release the body of a convicted person.

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. I wanted to know whether the Office of the Vice-President and Ministry of Home Affairs consulted His Excellency the President, who has the authority, to revoke that authority?

Mr. Osundwa: Mr. Deputy Speaker, Sir, if really the hon. Questioner wanted these bodies exhumed, he should have applied to the Office of the President and not to our Ministry.

Mr. Deputy Speaker: Mr. Osundwa, I do not understand what you are saying, because the hon. Questioner asked you if you could consider releasing the bodies to their next of kin, and you have taken the responsibility of answering it. So, answer that question.

Mr. Osundwa: Mr. Deputy Speaker, Sir, I had said that under the Prisons Act, Cap.75, my [Mr. Osundwa] Ministry is only responsible for the execution and cannot release the dead bodies because this is a responsibility that lies elsewhere. We can only be directed to release the bodies by another authority.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. The House may recall, that early this year a similar Question with regard to the release of the body of Dedan Kimathi was put to the Office of the President, and the Minister asked the hon. Questioner to make a formal request which we did to the Minister in charge.

Mr. Deputy Speaker: If you want to raise that issue, you must really be armed with your copy of the HANSARD. You are now asking the Chair and everybody else to remember. I will defer this Question to Tuesday next week. It will be answered by the Minister of State, Office of the President.

(Question deferred)

Question No.429

LIFTING OF MR. GITHAIGA'S INTERDICTION

Eng. Toro asked the Minister for Transport and Communications:-

(a) whether he is aware that Mr. A.W. Githaiga, Assistant Financial Controller, Kenya Railways Corporation has been under interdiction for more than six months on false allegations, with intention of blocking him from further promotions; and,

(b) whether he could inform the House when Mr. Githaiga's interdiction will be lifted.

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

(a) I am aware that Mr. A.W.Githaiga, Assistant Financial Controller, Kenya Railways Corporation has been under interdiction for more than six months, but not on flimsy grounds with a view to having him retrenched. In fact, Mr. Githaiga was interdicted in order to facilitate investigations into allegations that he had authorised the encashment of cheques to third parties, which is a criminal offence.

(b) The Kenya Railways Management Board asked Mr. Githaiga to respond to the alleged accusations and offenses, and after those investigations, he was reinstated in office on 22nd August, 2001.

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, it is unfortunate that the Assistant Minister has just read out to the House an answer which was given to him by the same officers who interdicted Mr. Githaiga. It appears that the Ministry did not do enough investigations. Mr. Githaiga was under interdiction for almost one year and yet, the mandatory interdiction period is about three months. It is apparent that this man was interdicted to facilitate the promotion of other people, and I have facts to that effect. To prove that this was the case, in March, 2000, the then Financial Controller of the Kenya Railways Corporations retired, and a Mr. Onsembe, who was junior to Mr. Githaiga, was made to act, instead of Mr. Gaithaga who was qualified to fill that post. In September, 2000, Mr. Githaiga was interdicted when he queried why he was being superseded by somebody who was in Grade RS6 and yet, he was in Grade RS4 - Assistant Financial Controller. When he was under interdiction, the Kenya Railways Corporation recruited a Mr. Alois Otieno in March, this year as a Chief Accountant and Mr. Githaiga was reinstated after this recruitment. In fact, he was not allowed to come for the interview although he applied for the job. Right now, Mr. Githaiga is---

Mr. Deputy Speaker: Order, Eng. Toro! Ask your question now!

Eng. Toro: Mr. Deputy Speaker, Sir, could the Assistant Minister tell this House whether he is aware of those facts, and why the same officer has not been allocated duties? Is this a ploy to retrench him?

Mr. Keah: Mr. Deputy Speaker, Sir, those are mere allegations by the Member of Parliament. As far as I am concerned, and as far as the Ministry is concerned, Mr. Githaiga, was correctly interdicted on the allegations I have stated. That information came to us from the Corporation because I could not get it from anywhere else. I have verified this information personally. In fact, I have gone into the depth of the circumstances of the interdiction. The issues he has raised about other people getting employed while he was under interdiction have

nothing to do with the sidelining of Mr. Githaiga, as he claims. I am perfectly happy that a fair treatment was extended to Mr. Githaiga and what the corporation has done is in accordance with the regulations of the Corporation.

Mr. Obwocha: Mr. Deputy Speaker, Sir, could the Assistant Minister be clear about this issue? Is it true that before Mr. Githaiga was interdicted, a person junior to him had been promoted to the position of the financial controller, who was then retiring?

Mr. Keah: Mr. Deputy Speaker, Sir, I did not go into the details of who was promoted and when he was promoted. I went into the details and circumstances of Mr. Githaiga and his particulars within the corporation.

Mr. Ndicho: Mr. Deputy Speaker, Sir, the Assistant Minister has justified Mr. Githaiga's interdiction by saying that he encashed cheques to third party persons which is clearly against the law. If that was the reason, what legal action was taken? Was he taken before a competent court of law and tried for that offence?

Mr. Keah: He did not encash a cheque. He authorised the encashment of cheques, in his capacity as the Assistant Financial Controller. Following those allegations, the Central Bank of Kenya Anti Fraud Police Unit were informed. I am convinced, following the interview I had with the Managing Director and senior officers of the Kenya Railways Corporation, that Mr. Githaiga was given fair treatment.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Assistant Minister says he did not investigate whether there were promotions made when Mr. Githaiga was under interdiction. Could he be given time to go and do full investigations and the losses that Mr. Githaiga suffered when he was wrongly interdicted?

Mr. Keah: Mr. Deputy Speaker, Sir, that should be filed as a separate Question so that I can investigate all the promotions that were made by the Kenya Railways Corporation during that period. However, in so far as this Question is concerned, there is no way I could come to this House with an analysis of the promotions that took place during that period!

Mr. Keriri: Mr. Deputy Speaker, Sir, I think the Assistant Minister has got everything wrong. This Question talks about blocking Mr. Githaiga from further promotion. So, the Assistant Minister ought to have investigated the promotions that took place in that department during that period, but not the entire Kenya Railways Corporation. Could the Assistant Minister admit that he failed to investigate and that he will now investigate that aspect?

Mr. Keah: Mr. Deputy Speaker, Sir, I read the Question very well. I went into the depth of answering this Question according to how best I interpreted it. It did not require me to bring here the promotions that took place during that period. If that is what is required by this House, I will duly comply. However, let it be filed as a separate Question!

Mrs. Sinyo: Mr. Deputy Speaker, Sir, I think the Assistant Minister has misled the House, and he should apologise for that. Irrespective of how he interprets the Question, he should always expect subsidiary questions on the Floor of the House. He has to be equipped if he has to answer Questions in this House! Can he give the list of those people who were promoted within that period so that he can answer this Question fully?

Mr. Keah: Mr. Deputy Speaker, Sir, to the best of my knowledge, I believe that I have not misled this House. I have answered the Question the way it has been asked. I did anticipate subsidiary questions which I prepared to answer. Indeed, I have not been reading the answer to all those subsidiary questions. I interviewed and interrogated officers of the Kenya Railways Corporation on this issue. For me to imagine that someone would ask for an analysis of all promotions effected within that period, was outside this Question.

Mr. Mwenda: Mr. Deputy Speaker, Sir, two very serious allegations have been made by Eng. Toro. The first one is that a person junior to that man was given the acting position. The second allegation is that while that man was under interdiction, the post was advertised. He was not allowed to attend the interview and another person was employed. Then, he was reinstated after the post was filled. Could the Assistant Minister clarify those two positions? Does that not really tell you that, that man was put under interdiction, so that, that post could be given to somebody else? Those are very intriguing circumstances.

Mr. Deputy Speaker: Those are very legitimate questions!

Mr. Keah: Mr. Deputy Speaker, Sir, first of all, I heard his question well. I did not say that somebody was promoted. It is Eng. Toro, who said that somebody was promoted. Secondly, promotions and recruitment are a continuous process in the management of any organisation. Whether one is interdicted or not, that process must go on because the Corporation must provide services. That is what happened!

Eng. Toro: Mr. Deputy Speaker, Sir, could I seek the indulgence of the Chair for this Question to be deferred and answered properly? You can see that the Assistant Minister is avoiding pertinent issues that I raised. The officer was deliberately interdicted for almost one year, despite the fact that, interdiction is supposed to last three months. During that period, he was not allowed to do any interview. The post that he was

deputising on was filled by somebody else. I would like to seek the Chair's indulgence for the deferment of this Question for further investigations.

Mr. Deputy Speaker: Order! We have spent over five minutes on this Question.

Eng. Toro: After what has arisen---

Mr. Deputy Speaker: Order! If you are not satisfied with the answer, you know what to do!

Eng. Toro: Could I ask the last question then?

Mr. Deputy Speaker: You know what to do, if you are not satisfied with the Assistant Minister's answer! Deferment is not the answer!

[**Mr. Deputy Speaker**]

Next Question!

Question No.450

COMPENSATION OF DISPLACED PEOPLE IN MARIMANTI

Mr. Mwenda asked the Minister for Agriculture:-

(a) why he has not compensated the people who were displaced to give room for the Embu Meru Isiolo Goat and Sheep Project (EMI) at Marimanti; and,

(b) when the compensation would be paid.

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

(a) The Ministry does not intend to compensate the people who were displaced to give room for the Embu Meru and Isiolo Goat and Sheep Project at Marimanti, because the land was trust land belonging to the local county council. The people who were affected by the project were relocated to another trust land in the neighbourhood, measuring 1,000 acres. They were compensated for their farm structures and crops, with the assistance of the local administration and civic leaders, by the project advisor. That project was assisted by the Overseas Development Assistance (ODA).

(b) In view of my answer to part (a) of the Question, the issue of compensation and payments does not arise.

Mr. Mwenda: Mr. Deputy Speaker, Sir, that is a very annoying answer because it is outrightly misleading. Over 300 families were displaced from the land which was given for that project. To date, most of them are living on the roadside because they were not given any alternative land or monetary compensation.

Mr. Deputy Speaker, Sir, Marimanti land is registered under Cap.300. So, there cannot be any trust land in Marimanti. Could the Assistant Minister give us the land parcel numbers given to those people who were displaced and the amount of compensation which was paid to them by ODA as he said?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the Embu Meru and Isiolo Goat and Sheep Project was started in 1982 by the Government, with the help of the British Overseas Development Assistance. The beneficiaries were the goat and sheep keepers whose source of livelihood is livestock farming. The Government's contribution to that project was, as I said earlier on, 1,000 acres at Marimanti Farm in Tharaka District. I repeat that the land was trust land and not privately owned. The people who were temporarily cultivating the land were relocated to another area measuring 1,000 acres within the neighbourhood. They were compensated for their crops and structures. They were paid by the project manager.

Mr. Deputy Speaker, Sir, I am sorry because we cannot get the list of the amounts paid to the people who were moved away from the intended project. We are still trying to find out whether a copy of the list was left behind by the project manager.

Mr. Deputy Speaker: Order! He asked you two questions; firstly, to give him the parcel numbers of the land where they were transferred and, secondly, how much compensation they were paid. You cannot say that compensation was paid and nobody knows how much it was, including the people themselves!

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, the people were paid by the project manager. But, as I said earlier on, it has become almost impossible to get the list of the amounts that were paid to those people! The list of the people will be provided by my Ministry to this House!

Mr. Mwenda: Mr. Deputy Speaker, Sir, this is a very serious matter! Citizens of this country have been rendered landless by an act of State. The Assistant Minister says he cannot give the list of those people, the parcel numbers and the amount of compensation paid and yet, I have said that those people are living on the roadside. Could the Assistant Minister be compelled to provide the parcel numbers and the amount of money

paid as compensation to those people? It is obviously not true!

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, it is true that the people who cultivated the 1,000 acres temporarily were moved away from the project.

Mr. Muithia: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Assistant Minister to keep on going round in circles? He says that he cannot get the list or the parcel numbers. He also says that they have been compensated. Is it in order for him to refuse to answer a specific question?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I have not refused to answer that question. I will give the list. I said that we looked for the list of the people who were compensated, but we could not trace it in our Ministry. Since those people had no title deeds for that land, which was a trust land, they had to be moved away from that Government project.

Mr. Shitanda: Mr. Deputy Speaker, Sir, is it in order for the Assistant Minister to continue misleading this House that those people who were moved from that land to some other land were not [Mr. Shitanda] compensated by being given other land or money? If it is true that, that land did not belong to those people, why would they be compensated in the first place?

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I said this land did not belong to these individuals. It was a Government trust land and they were compensated. They were paid for the structures that they had put up, such as their houses, stores and granaries.

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied with the answers given by the Assistant Minister who is unable to answer Questions in this House?

Mr. Deputy Speaker: You are asking the Chair a question; that is not a point of order.

Mr. Mwenda: Mr. Deputy Speaker, Sir, I will need your guidance and direction here. It is obvious to you and the House that the Assistant Minister is not telling the House the truth. My understanding is that, even the county council cannot, as a trustee, dispose of trust land to the detriment of the beneficiaries. If it was given by the county council, there must have been a written agreement between the county council and the Government or the ODA. Those documents must be in the possession of the Ministry. Could the Assistant Minister be ordered to go back and bring all these details because these are Kenyans who are suffering and the Government does not want to tell us what they will do to solve their problems.

Mr. Sumbeiywo: Mr. Deputy Speaker, Sir, I am prepared to go and bring all these documents related to the project. I want to correct one impression that has been given here by Mr. Muchiri that I am unable to answer Questions in this House. I am able to answer Questions and I always answer Questions. It is only Mr. Muchiri---

Mr. Deputy Speaker: Order! Mr. Muchiri raised no issue because I overruled him out of order. So, you are answering a non-existent question. Mr. Assistant Minister, questions that Mr. Mwenda is asking for must form part of the answer to this Question. This Question will come up again on Wednesday next week.

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

Mr. Deputy Speaker: It should not be on that issue because I have already given my ruling.

Mr. Mwenda: I just want it to be answered on Thursday because it might not be possible on Wednesday.

Mr. Deputy Speaker: Alright, Thursday, next week.

(Question deferred)

Question No.231

HIGH WATER TARIFFS ALONG MZIMA SPRINGS

Mr. Mwakiringo asked the Minister for Water Development:-

- (a) whether he could explain why the National Water Conservation Corporation increased its water tariffs by 100 per cent to ranches along Mzima Springs in Taita/Taveta District;
- (b) whether he is aware that the ranches are almost closing down due to heavy expenditure on water bills; and,
- (c) what urgent measures he is taking to ensure that the tariffs are lowered taking into consideration that the Mzima Springs book value is zero.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) In the past, my Ministry has subsidised the services rendered to the water consumers, including the ranches along Mzima Springs. However, due to the rising costs of water production, my Ministry reviewed water

tariffs upwards to meet operation and maintenance costs. In an effort to improve service delivery and ensure that water supply remains sustainable, effective measures have been put in place to raise revenue for purposes of meeting operation and maintenance of water supply.

(b) I am not aware. However, I am aware that water supply to two out of the 16 ranches have been disconnected due to non-payment. These are: Ikonge-Mwaruvunga Wagala Ranch which has a debt of Kshs7,125 and Silvano Mweddo Ranch which has a debt of Kshs12,375.

(c) Although the tariffs seem high they still do not cover all expenses of providing water. It is to the benefit of consumers that the water supply remains sustainable. This can only be achieved if the consumers pay for the services being rendered to them.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, when the tariffs were increased, the ranches wrote to the Minister to have their tariffs reviewed downwards because of the drought which affected most parts of the Coast region. That has not been done to date. They were only asking specifically about those ranches and not other areas where consumption is higher and people can afford to pay. What action has he taken to review the tariffs downwards based on the appeal from the ranch farmers in Taita/Taveta District?

Mr. Kofa: Mr. Deputy Speaker, Sir, so far, no action has been taken to review the tariffs downwards.

Mr. Kamolleh: Mr. Deputy Speaker, Sir, the Government has the responsibility of providing water to each and every person in this Republic. These ranches are not here on temporary basis because they rear all sorts of animals. Definitely, the people who are taking care of these animals also need water. If the National Water Conservation and Pipeline Corporation (NWCP) disconnects water to these ranches, more money will be lost when these animals die. Why do you not write them a harsh letter, informing them that you will auction their cattle rather than disconnecting their water supply? Could the Assistant Minister from now tell the NWCP not to disconnect water supply and actually give reasons why these people have not paid? The Ministry should not give them the order to disconnect water supply, but rather tell them to write to the consumers and caution them on that.

Mr. Kofa: Mr. Deputy Speaker, Sir, there are no six ranches whose water has been disconnected. I said there were only two. They have also been reminded to make their payments, but the payments were not forthcoming. This is why the NWCP did disconnect the water supply.

Mr. Deputy Speaker: Mr. Assistant Minister, what costs increased in the supply of water from Mzima Springs?

Mr. Kofa: Mr. Deputy Speaker, Sir, I do not have the records right now.

Mr. Katuku: Mr. Deputy Speaker, Sir, the NWCP raised the cost of this water by 100 per cent and that is why these ranches could not pay those bills. Could the Assistant Minister tell this House the justification for this 100 per cent rise of the cost of water to this area? Could he consider reviewing down the cost of this water supply to what it was before so that the ranch owners can be able to pay their bills?

Mr. Kofa: Mr. Deputy Speaker, Sir, the Ministry used to foot the bills of these ranches, but the cost became too high. Even with the full payment of these debts, the running costs are still high. So, that is not possible.

Mr. Badawy: Mr. Deputy Speaker, Sir, the two ranches that have closed down as a result of lack of water in Taita/Taveta are, but only a few of farming projects along the Coast. Zero grazing projects and small irrigation schemes along the Coast are closing down because the Ministry of Environment and Natural Resources has failed to classify different consumers. They are charging industrialists, urban consumers and farmers in the rural areas the same rates. Could the Assistant Minister undertake to classify the consumers such that the small scale farmers, particularly, those who see the water passing along the pipeline, going into the township and yet cannot afford to pay for it can get water? This is evident from the closure of quite a number of kiosks that were intended to serve the poor folks in the rural areas. Could he classify and confirm to us that, that subsidy he talked about will really benefit the small-scale farmer and the rural folk?

Mr. Kofa: Mr. Deputy Speaker, Sir, I do accept that there are such variations in charging and we shall look into that.

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, surprisingly, the Government says it is committed to eradicating poverty, but in this case it is not considerate. This is because those ranches along the Mzima Springs pipeline are in arid areas. What criteria did they use to review tariffs upwards when the current Mzima Springs book value is zero? You can only increase tariffs upwards when you want to expand the water system to urban areas, but in this case the book value is zero. What are you maintaining because, as we are talking now, there is nothing you are doing along Mzima Springs? What criteria did you use and if you do not have it, then review your tariffs downwards to allow the ranchers to use a lot of water and pay less so that we can eradicate poverty? Otherwise, this is a deliberate move by the Government to impoverish the ranch farmers along the Mzima

Springs. What criteria did you use?

Mr. Kofa: Mr. Deputy Speaker, Sir, all ranches are not of the same size; some are big while others are small. So, we used that criteria to raise the tariffs.

Mr. Mwakiringo: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House while in his reply to my Question, he said that the Government raised the tariffs upwards because it could not subsidise? Now, he goes on to say that the criteria used was the size of the ranches. However, the issue is that the consumption will definitely be higher and when that is so, the tariffs definitely must be low. The Assistant Minister is misleading the House. Could he clarify that issue?

Mr. Kofa: Mr. Deputy Speaker, Sir, I still insist that we raised the tariffs according to the size of the ranches.

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

Question No.485

SALE OF MILIMANI COUNCIL HOUSES

Mr. Manyara asked the Minister for Local Government:-

(a) whether he is aware

that 17 Milimani Council houses in Nakuru have been sold to private developers; and,

(b) what action he is taking against this illegal allocation of council houses.

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

(a) Yes, I am aware.

(b) The irregular allocation of council plots and houses was the subject of an extraordinary inspection. The inspectors have already submitted their report which is being analysed by the Ministry and appropriate action will be taken in line with the findings and recommendations of the inspectors.

Mr. Manyara: Mr. Deputy Speaker, Sir, resulting from the Assistant Minister's reply, is he aware that there was an audit report in January 2000 which took six months to compile. There was also a probe committee which was sent there in November 20th, 2000 to March 2001. After all these we have never seen the probe committee's results. Therefore, I would like to ask the Assistant Minister how long shall it take the Government to revoke the allocation of those houses because it is now three years since that time?

Mr. Sirma: Mr. Deputy Speaker, Sir, as I said, we are going to take the necessary action in line with these recommendations. Some of the recommendations include revocation of these houses as the hon. Member has just mentioned.

Mr. Achola: Mr. Deputy Speaker, Sir, could the Assistant Minister explain to the House what is happening to the 17 houses which have been illegally allocated? Have you stopped any development on them pending the outcome of that investigation?

Mr. Sirma: Mr. Deputy Speaker, Sir, the 17 houses were approved by the council. In view of the debt owed to the Kenya National Assurance Corporation (KNAC) of Kshs6 million, which they were supposed to attach to the Moi Flats, payments have been made on some of them amounting to Kshs5.6 million to the KNAC to save these other houses. Therefore, the council may not be able to raise that amount of money and refund the people who bought the houses because they have taken the leases. Also, there are houses which are very necessary and we are of the view that we shall revoke their allocation.

Mr. Kombo: Mr. Deputy Speaker, Sir, Nakuru is very close to Kabarak and, as you know, the President recently rushed to have Kitale Municipality dissolved and yet there is corruption at the doorstep of Kabarak. Could the Assistant Minister try and find out why the President has not had Nakuru Town Council dissolved?

Mr. Sirma: Mr. Deputy Speaker, Sir, I cannot act on behalf of the President.

Mr. Omingo: Mr. Deputy Speaker, Sir, the council and their chief officers are actually misappropriating funds and property belonging to the council with impunity. Now, could the Assistant Minister come out clearly and say if the council owes KNAC Kshs600 million and only Kshs5 million has been collected. Is there any way there could be harmony or are these houses being given to individuals who are politically correct? It is not possible to sell these houses at Kshs5 million to pay a debt of Kshs600 million.

Mr. Sirma: Mr. Deputy Speaker, Sir, let me correct hon. Omingo. It is not Kshs600 million, but Kshs6 million and the council has collected Kshs5.6 million and now there is a deficit of Kshs400,000.

Mr. Manyara: Mr. Deputy Speaker, Sir, the Assistant Minister is misleading this House. The council has only collected Kshs620,000. That is Kshs600,000 from Major Magut and Kshs20,000 from the former Mayor,

Mr. Herman Nderi. As concerns the other three houses, one was grabbed by Prof. Sam Ogeri who was the former Minister for Local Government and the other two by the former Kisii KANU Branch Chairman, Mr. Geoffrey Asanyo. Up to now, they have paid nothing to the council. I am asking the Assistant Minister: How is he going to revoke the allocation of these houses? I can also table the documents which I have with me here.

(Applause)

Mr. Deputy Speaker: Order! Where is that document from?

Mr. Manyara: Mr. Deputy Speaker, Sir, it is from the council.

Mr. Deputy Speaker: Then table it.

(Mr. Manyara laid the document on the Table)

Mr. Sirma: Mr. Deputy Speaker, Sir, anyone who has not paid the council money equivalent to the value of the plot will be affected because the allocation will definitely be revoked.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say that anybody who has not paid for his or her house will be affected when, in fact, he has not answered the question, that the amount paid is Kshs620,000 as against what he says to be Kshs600 million? There is a discrepancy there.

Mr. Sirma: Mr. Deputy Speaker, Sir, regarding the amount paid by all those who were allocated, already, Kshs5.6 million has been received by the council. I do not think that there is anybody who has paid only Kshs20,000.

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

Mr. Deputy Speaker: Order! Mr. Manyara, you have given me two pieces of paper. One is a letter from the Ministry of Local Government authorising disposal of those houses and the other one is a list which comes from nobody and nowhere. I will not accept this list.

Mr. Ndicho: Mr. Deputy Speaker, Sir---

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

Mr. Deputy Speaker: Order, Mr. Gatabaki! Mr. Ndicho has got the Floor!

Mr. Ndicho: Mr. Deputy Speaker, Sir, would I be in order to request the Assistant Minister to also read out to us the names of five people who have paid? Could he also justify the Kshs.5.6 million and lay that document on the Table?

Mr. Deputy Speaker: That is in order.

Mr. Sirma: Mr. Deputy Speaker, Sir, I wish to lay on the Table, the list of payments and of those who have paid and their balances.

Mr. Deputy Speaker: Read out the five names! **Mr. Sirma:** Mr. Deputy Speaker, Sir, the allottees were as follows: Ms Jeniffer Chemutai, house No.11/120(A), and the value was Kshs900,000 paid in total and the balance was nil. It was paid on 28th of July, 1998. Councillor Ngoru Ngere, S. Mwangi and Ramadhan were allocated plot No.11/120(B). The value was Kshs109,100 but that house has not been sold. Mr. Michael Masai was allocated house No.11/20 and the value was Kshs850,000 and the amount so far paid is Kshs500,000. The balance is Kshs350,000, and that was paid on 3rd of August 1998. Major Magut was allocated house No.11/61 and the value was Kshs657,000. He has paid in total and there is no balance. It was paid on 15th June, 1998. Malkumi Agencies, were allocated house No.11/16 whose value was Kshs700,000 and the payment made was Kshs700,000 and the balance is nil. That was paid on the 4th August, 1998. Mr. Henry Chemos got house No.12/92 and the value was Kshs650,000. It was paid in total on 30th July, 1998. Then, Wakam Agencies got house No.12/149 and the value was Kshs650,000. The allottee has paid Kshs605,780 and the balance is Kshs44,000. That was paid on 29th July, 1998. The value of house No.12/116 given to Ndema Enterprises was Kshs550,000. He paid it in full. Mr. J.M. Michoma got house No.12/119, and the value was Kshs650,000 and the payment paid so far is Kshs350,000 and the amount due is Kshs300,000. Councillors sold to Sadena Agencies plot No. 12/77, and its value was Kshs400,000. They paid in total in December, 2000. Mr. Kennedy Bosire got plot No.12/133 and the value was Kshs850,000 and so far, he has paid Kshs300,000. The balance was Kshs550,000, which was paid on 29th September, 1999. Regarding the other house which is plot No. 11/66, valuation was not done because it was not earmarked for sale. That was the Town Clerk's house. But there was payment of Kshs500,000 made on 1st of April, 1999.

Mr. Deputy Speaker: How many names have you got there?

Mr. Sirma: Mr. Deputy Speaker, Sir, we have sixteen names.

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

Mr. Deputy Speaker: Mr. Sirma was responding to a point of order!

Mr. Sirma: Mr. Deputy Speaker, Sir, I am on the 13th name.

Mr. Deputy Speaker: Order! Carry on!

Mr. Sirma: Mr. Deputy Speaker, Sir, it is here, and you will have it. Councillors sold to Mr. Ibrahim Mohammed plot No.11/646 and the value was Kshs400,000 and it was paid in total. Councillors again sold to Mr. Thomas Ngare Wanjohi a municipal council house and there was no valuation done and he paid Kshs200,000 on 5th of July, 1999. Mr. M. Munyoki got plot No.11/680 at a value of Kshs102,880 and it was paid in total. Mr. S.K. Ng'eno got plot No.11/679, and the value was Kshs85,400 and it was paid in total. These houses were subject to investigations which were being done. Other houses were sold, but there was no valuation. So, the Ministry is of the view that we revise the decision reached at by the council.

Ms Karua: Mr. Deputy Speaker, Sir, it does appear that the list read out by the Assistant Minister is a replica of the list that you had just rejected. Is it in order for the Assistant Minister to read out some names in abbreviation? Instead of reading out in full the names Ms Jennifer Moi, he reads out only two names. It also appears that S.K. Ng'eno, who is the officer in charge, and one senior officer in the Ministry of Local Government, authorised this sale and the former immediately became a beneficiary. It is clear that it was an underhand deal. What action is the Ministry taking against Mr. S.K. Ng'eno and all the other people listed who are by all standards, grabbers?

Mr. Sirma: Mr. Deputy Speaker, Sir, the sale of the houses was approved as shown by council minutes and, therefore, we have nothing to hide on this. I wish to inform the hon. Member that we are not reading out names in abbreviation. We do not know the other names because they have been printed and that is what we have.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, considering that this portion of Nakuru has got the highest rates, because we are talking about "Muthaiga" of Nakuru and considering the value of the houses which stand on three-acres, none of the houses should go below Kshs5 million. Is the Assistant Minister in order not to tell the House the real value of those properties?

Mr. Sirma: Mr. Deputy Speaker, Sir, the valuation was done by a professional valuer, Dr. E.M. Munyoki, who is an experienced and a well known and reputable valuer in that town.

Mr. Manyara: Mr. Deputy Speaker, Sir, as you have rejected the list that I have given you, I want also the Assistant Minister to give out the receipts showing those amounts he was reading out from the list. He should lay the receipts on the Table because we have the list, but the receipts are not there. Could he lay them on the Table?

Mr. Deputy Speaker: The receipts are with the people who bought the houses!

Mr. Manyara: No! They are from the council. We need their photocopies. They are not there.

Mr. Deputy Speaker: Order! We are now holding an inquiry, instead of a question-and-answer session. If you are not satisfied with the Assistant Minister's reply, you know what to do.

Next Question!

Question No.211

RATIFICATION OF INTERNATIONAL CRIMINAL COURT STATUTE

Dr. Ochuodho asked the Attorney-General:-

(a) when the Government will ratify and implement the International Criminal Court (ICC) Statute; and,

(b) what arrangements are being put in place to create awareness about the treaty among legislators, civil servants, professionals, civil society and the general public.

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The issue of ratification and implementation of the ICC Statute has been embarked on by the Government of Kenya as we await the completion of the work of the Preparatory Commission on the ICC.

(b) The initial arrangements are for a workshop on ratification and implementation of the statute.

Dr. Ochuodho: Mr. Deputy Speaker, Sir, for the benefit of the House, one of the major purposes of the ICC is to allow the trying of those who have committed atrocities. Because the Government has rejected the idea of establishing a truth and reconciliation commission, people who may commit atrocities in this country may never

be tried. If Kenya had ratified the ICC Statute, as many countries have done, we would try those people who have committed atrocities against mankind. Many countries have ratified the ICC Statute. Kenya is one of the very few countries which have not done so. Could the Attorney-General tell us in concrete terms when the Government will ratify and domesticate this law?

Mr. Wako: Mr. Deputy Speaker, Sir, it is wrong to say that many countries have ratified this law and that Kenya is among the few countries which have not done so. As a matter of fact, Kenya is among the many countries which have signed the statute. As of 12th November, 2001, Kenya was amongst the 139 countries which had signed the ICC Statute. As for ratification, it is again wrong to say that many countries have ratified the statute because, as of 12th November, 2001, only 43 countries had ratified the statute.

Ms. Karua: Mr. Deputy Speaker, Sir, could the Attorney-General tell this House what difficulties the Government has in ratifying this convention? Is it that the Government fears that the ICC may try people amongst its ranks as it has done to Mr. Slobodan Milosevic and General Pinochet?

Mr. Wako: Mr. Deputy Speaker, Sir, the Government of Kenya is committed to ratifying this statute. As you know, the Government of Kenya took a very active part in Rome; I was one of the Vice-Presidents in charge of Africa during the international conference on the ICC Statute. The Government of Kenya has signed the convention. Kenya is for a credible, fair and effective independent court. Just like many other countries, Kenya is awaiting the completion of the work of the Preparatory Commission on the ICC, which is currently meeting. It is anticipated that this will be the last of its meetings after which we will go and ratify the ICC Statute.

The ratification of the ICC Statute is not like the ratification of other international conventions. For the ICC Statute to be effective even after we ratify it, we must change our laws to take into account the ICC Statute. That is why we have not ratified this statute up to now. To be able to change the law properly, we need to know the gamut of the Statute and what the Preparatory Commission on the ICC has been doing.

Mr. Deputy Speaker, Sir, I would like to inform this House that the Government of Kenya has been one of the most active participants at the Preparatory Commission's meetings in New York. Kenya has not missed even a single Preparatory Commission meeting as far as that issue is concerned. Everything should be agreed and then we shall embark on the ratification process. At the same time, we have embarked on the process of identifying the areas of our own municipal laws which need to be amended to conform with the Rome Statute. I hope that very soon, at the East African level, we should be able to have a workshop of Members of Parliament on the issue of the laws that require amending to conform with the Statute once ratified.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, is the Attorney-General aware that with or without Kenya's ratification of the ICC Statute, the International Criminal Code allows any country in the world to arrest anybody implicated in any crime against humanity, and that our top leaders can be arrested anywhere once they fly out of the country? What is he doing to protect our criminals who are now in leadership?

(Laughter)

Mr. Wako: Mr. Deputy Speaker, Sir, the hon. Member knows very clearly that even before talking about the international criminal system, under our own national laws, everybody is innocent until proved guilty.

The Government of Kenya is interested in ensuring that we have a proper international criminal system. As you know, the world is now becoming a global village. The only missing link in this global village is the international criminal legal system. That is what the Government of Kenya is doing alongside other member states of the United Nations to ensure that we have a credible international criminal legal system in place.

Mr. Deputy Speaker: The last question, Dr. Ochuodho!

Dr. Ochuodho: Mr. Deputy Speaker, Sir, the Government has always been quick to talk about globalisation. The general trend is for countries to ratify international conventions. The Attorney-General is confusing hon. Members. As we very well know, signing and ratifying a convention are two different things. Could the Attorney-General tell us when to expect the Government to ratify the ICC Statute? Forty-three countries have already ratified the Statute. Secondly, when is he going to bring a Bill here for the domestication of the Statute?

Mr. Wako: Mr. Deputy Speaker, Sir, we have already signed the Rome Statute, thereby indicating our support for it. As I have indicated in my answer, we are now in the process of undertaking ratification. But more importantly, because this is a special international statute, we need to put our own national laws in place. We are going to have a workshop of Members of Parliament not only of Kenya, but also of Uganda and Tanzania because we are also co-ordinating at the level of the East African Community, to ensure that we have similar laws.

Question No.467

APPOINTMENT OF SUB-CHIEF FOR MIHANGO

Mr. P.K. Mwangi asked the Minister of State, Office of the President:-

- (a) whether he is aware that the position of Sub-Chief, Mihango Sub-Location of Kambiti Location, has been vacant for the last three years; and,
 (b) when the post will be filled.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I apologise for coming late.

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

(a) I am aware that the position of Sub-Chief, Mihango Sub-Location, has been vacant, in fact, not for three years but for five years.

(b) This position can only be filled when a case of the Sub-Chief in question has been determined.

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, for the last five good years, Mihango Sub-Location has never had a sub-chief. The sub-chief was interdicted when he questioned the interference in his job by his boss. Could the Minister tell us the reasons for the interdiction of Mr. Kahenyi?

Maj. Madoka: Mr. Deputy Speaker, Sir, I must confess that the delay in finalising this case is totally unwarranted. I am certainly pursuing it to see that it is determined as quickly as possible. Definitely, five years is more than long enough time to finalise this case.

Mr. Muchiri: Mr. Deputy Speaker, Sir, the Minister says that the case has taken five years. If this is a disciplinary matter and the sub-chief has been interdicted for five years, it is more than obvious that, at the end of the day, the Government will incur some loss. Who will the Minister surcharge to recover the loss being incurred by the Government? Secondly, how serious is this case, which has taken the Government five years to determine? What is it all about?

Maj. Madoka: Mr. Deputy Speaker, Sir, as I said, I am also alarmed as to why it has taken that long.

Mr. Katuku: Mr. Deputy Speaker, Sir, there is a pertinent question which has been asked by Mr. P.K. Mwangi: What was the reason for interdicting this assistant chief? If the Minister has [**Mr. Katuku**] not been properly briefed, he should go back and get the proper brief. We want to know why the assistant chief was interdicted.

Mr. Deputy Speaker: Order! Why was the assistant chief interdicted?

Maj. Madoka: Mr. Deputy Speaker, Sir, I really do not know. I was out of the country and I just came this morning. When I tried to check this up, I was not given a satisfactory answer.

Mr. Deputy Speaker: Order! That Question is deferred to Wednesday, next week.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

VEHICLES FOR DISTRICT OFFICERS

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

- (a) Is the Minister aware that District Offices in the three divisions of Nyatike Constituency have no vehicles?
 (b) Is he further aware that as a result, it is impossible for the officers to deal with urgent security matters?
 (c) What action is he taking to provide the officers with vehicles?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes I am aware that two divisions in Nyatike Constituency do not have any vehicles.

(b) I am aware that it becomes a bit difficult for these officers to perform their duties, but we always make provision from Bungoma District, to assist them when there is an urgent need.

(c) We are making arrangements to provide the required vehicles. We will get some vehicles towards the end of this month and so, we will provide vehicles to those officers.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. You have clearly heard the Minister talking about Bungoma District, which is very far from Nyatike Constituency. How does Bungoma District come in?

Maj. Madoka: Mr. Deputy Speaker, Sir, I do apologise. I meant Migori District.

Mr. Kajwang: Mr. Deputy Speaker, Sir, this case of Nyatike Constituency is not any different from cases in several other constituencies, including Mbita in Suba District. What plans does the Government put in place before it opens up new districts and divisions? We have cases where the Government has put a District Officer in some bush without any means of communication, telephone, vehicle and sometimes *askaris*. Why can the Government not dismantle these divisions if it cannot look after them?

Maj. Madoka: Mr. Deputy Speaker, Sir, we have discussed the question of setting up new divisions, and they have mainly been set up due to the demand of the communities. I agree that sometimes, we post officers to these new divisions before we provide the necessary equipment, but we are doing our best to ensure that we equip these officers.

Mr. Mwenda: Mr. Deputy Speaker, Sir, last year, there was a statement issued by the Permanent Secretary, Mr. Cheruiyot, indicating that sub-chiefs, chiefs and the District Officers (DOs) would be retrenched. What is the Government's position now? This is because chiefs and DOs are in a state of fear. They do not know whether next time, they will lose their jobs.

Maj. Madoka: Mr. Deputy Speaker, Sir, I thought that, that statement had been withdrawn.

Mr. Onyango: Mr. Deputy Speaker, Sir, could the Minister be definite and tell us when the Government will provide vehicles to DOs in Nyatike Constituency? The three DOs really get problems. They cannot do their job properly, especially when there is a raid at Karungu and Miongo divisions. When will the Government provide the vehicles?

Maj. Madoka: Mr. Deputy Speaker, Sir, we are getting some vehicles towards the end of this month. I know they will not be enough to be given to each and every division and so, we will determine which particular areas will be given priority. But we will ensure that, at least, Nyatike Division gets one vehicle.

POLICE INVASION OF MR OMBOTO'S HOUSE

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

(a) Is the Minister aware that on 15th October, 2001, a Mr. David Oirere Omboto's house was raided by armed plainclothes police officers from Suneka DO's office in Kisii Central who allegedly took Kshs88,000 from him?

(b) Is he further aware that the officers harassed residents in the constituency on the pretext of raiding chang'aa dens?

(c) What steps will he take to halt these illegal acts and also assist Mr. Omboto recover his money?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) I am also not aware.

(c) This case has not been reported to any police station and, therefore, we have not taken any action. But if it is reported, we will certainly take action.

Mr. Omingo: Mr. Deputy Speaker, Sir, I take cognisance of the fact that the Minister was out of the country, but I believe he should have been appropriately briefed. If I can shed some light on this issue, police officers from Suneka DO's office hired a private pick-up, which is held today in Kisii Central Police Station. The driver of the vehicle positively identified the people who hired the vehicle to be police officers, who have been doing the same in order for him to take them round into illicit brew dens.

I would like to request the Minister if he wants to get further information. The case is being investigated by the people on the ground, the vehicle is currently held at the Kisii Central Police Station and the police officers who were in that vehicle, perhaps, are still in employment.

Maj. Madoka: Mr. Deputy Speaker, Sir, the report I have from the police station indicates that no such incident has been reported. So, maybe, I will have to pursue the matter to establish whether the hon. Member's facts are correct or not.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, these type of incidents are not restricted to South Mugirango Constituency. In fact, in the entire Gusii land, administration policemen (APs) and DOs are terrorising our people. They move from Nyamira, for example, to my Constituency in Kisii Central and harass my people. Could the Minister tell this House what the policy of the Government is, with regard to the work of the DOs and the APs?

What is their job? Is it to raid the homes of innocent people at night?

Maj. Madoka: Mr. Deputy Speaker, Sir, certainly, the DOs and the APs have no right to harass the *wananchi*. If there are any specific incidents of police harassment, they should be reported to the police and we will pursue them vigorously.

Mr. Omingo: Mr. Deputy Speaker, Sir, certainly, this incident could not have passed unnoticed at any rate. It is embarrassing for the Government that it does not know that one of my constituents lost Kshs88,000 from his business. As I speak today, the vehicle that was used by the police officers to raid Mr. Omboto's house is being held at the Kisii Central Police Station. So, if the Minister is not aware of this incident, could he then go back and come back even tomorrow with an answer to this Question? This will alleviate the sufferings of the people. These police officers crossed from another constituency to my constituency. If the Minister will not stop this police harassment, then I think we have got a very serious internal insecurity in my constituency.

Maj. Madoka: Mr. Deputy Speaker, Sir, as I have said, the alleged theft of Kshs88,000 has not been reported. I will have to establish whether the hon. Member's facts are correct or not.

SHOOTING OF MR. MUSEKESE

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

(a) Is the Minister aware that Mr. Nicholas Musekese was shot dead by two unknown people on Sunday 27th October, 2001, at Lugulu Market in Webuye Constituency and the matter reported to Webuye Police Station, which is only three kilometres away from the scene of crime?

(b) Is he further aware that the Administration Police camp is just 800 metres from where Mr. Musekese was killed?

(c) Why did it take the police six hours to arrive at Lugulu Market, thereby enabling the suspects to disappear?

(d) What investigations have been conducted so far on this killing of an innocent school teacher?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) The AP's camp is 1.9 kilometres, and not 800 metres, away.

(c) Webuye Police Station does not have a vehicle and therefore, the report was sent to Bungoma District Headquarters. When the District Criminal Investigations Officer (DCIO) was going to the area, his vehicle also broke down and that is why it took the police a bit of time to get to the scene of crime.

(d) Police investigations file No.916/282/2001, and inquest file No.13/2001 were opened and are still pending under investigations. So, far, no arrests have been made.

Mr. Kombo: Mr. Deputy Speaker, Sir, the Minister has shown how casual the security officers were on a serious matter. The AP Camp is not 1.9 kilometres away from the scene of the murder. Indeed, we can go there and measure that distance---

(Loud consultations)

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

Mr. Kombo: Mr. Deputy Speaker, Sir, the Administration Police Camp is 800 metres away. Ordinarily, the Administration Police Officers guard Lugulu Hospital, which is 50 metres from where Mr. Musekese was killed. In view of the fact that the police have been involved in many insecurity cases in the country, obviously, the people of Webuye are suspicious about their behaviour. When the man who was with Mr. Musekese rushed to the AP Camp, the officers were not in the camp at that time. They were not guarding the hospital and they were not in the camp. Could the Minister investigate and consider these Administration Police officers as first suspects since they were neither guarding the hospital 50 metres away, nor at the camp and they did not arrive at the scene of the murder?

Maj. Madoka: I have taken note of the valuable information given by the hon. Member.

Mr. Munyasia: Mr. Deputy Speaker, Sir, when the Administration Police officers arrived at the scene of the murder they were given four empty cartridges from the gun that shot Mr. Musekese. Could the Minister tell this House from which gun those spent cartridges came from? Which gun did the police officers find to have been used to kill Mr. Musekese?

Maj. Madoka: Mr. Deputy Speaker, Sir, I said that the investigations are still on and I do not think I can

give any information at the moment.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Minister seems to blame sluggishness on the part of police on lack of a vehicle at Webuye Police Station. Does he also know that the District Officer, Webuye, is having a vehicle which could have been borrowed by the police to pursue the killers of Mr. Musekese?

Maj. Madoka: Mr. Deputy Speaker, Sir, obviously, the police officers took steps to get to the scene of the murder, and they did get to the scene.

Mr. Kombo: Mr. Deputy Speaker, Sir, although Kenyans have to depend on the police for security, the Minister is agreeing that Webuye Police Station has no vehicles and yet it covers a large area. In fact, for the last six months, the police officers been hiring matatus to go to areas where there is insecurity. What is the Minister doing to ensure that Webuye Police Station has got a vehicle in order to provide security around that area, which is insecure at the moment?

Maj. Madoka: Mr. Deputy Speaker, Sir, I did say that we are getting some vehicles towards the end of this month. I hope we will provide Webuye Police Station with a vehicle.

Mr. Deputy Speaker: Next Question, by Eng. Muriuki!

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

Mr. Deputy Speaker: I have already passed that Question! Eng. Muriuki's Question!

RATIONALE FOR SALE OF TELKOM

(Eng. Muriuki) to ask the Minister for Transport and Communications the rationale behind the proposed sale of Telkom Kenya, or a portion of it, to foreigners.

Mr. Deputy Speaker: Since Eng. Muriuki is not here, the Question is dropped.

(Question dropped)

Mr. Deputy Speaker: That marks the end of Question Time.
Next Order!

POINT OF ORDER

BEATING OF HON. KIKUYU

Mr. Katuku: On a point of order, Mr. Deputy Speaker, Sir. I am standing to seek a Ministerial Statement from the Minister in charge of Internal Security, in relation to Mr. Jonesmus Mwanza Kikuyu, who was thoroughly beaten on 8th November, by a an organised gang which was referring to itself as "Taliban". The gang said that they had instructions from "Osama" to terrorise the hon. Member. Mr. Kikuyu was held from 12.30 p.m. to 3.30 p.m., at a place known as Kayata in Kilome Constituency. After the hon. Member was terrorised and beaten up, he reported the matter to Salama Police Post and gave the names of the people who were terrorising him; the vehicles which were involved in the operation, but up to date, no action has been taken. I would like the Minister to tell this House who were the members of that gang, who had sent the gang, and what action he has taken against them.

Mr. Deputy Speaker, Sir, to assist the Minister in his operation or in his response, I have a document here which was presented to the Electoral Commission of Kenya by the Shadow Attorney-General, Democratic Party of Kenya, when we had a joint meeting here in Parliament. The document talks about campaign movement strategies and it has code: "Osama". There are so many details in this document and among them is that, there was to be special "E" squad comprising of foreigners to operate from the nearest police post or the chief's camp, and then leave the place immediately after a successful operation, to a destination which must remain secret and only known to the DCIO, Makueni.

Mr. Deputy Speaker, Sir, there are so many details in this document. Amongst other operations, it was to hijack people, sodomise them, and rape women. I want to table this document so that the Minister can give us more details about this "Osama".

Mr. Deputy Speaker: Order! Order! When hon. Members wish to elicit statements from Ministers, it is not an occasion to start lecturing to this House on all manner of things. Mr. Katuku, I gave you an opportunity to seek a Ministerial Statement, but now you are lecturing to us on a document that I can only describe as emanating from yourself. Please, table it.

(Mr. Katuku laid the document on the Table)

Maj. Madoka, would you like to respond to Mr. Katuku's request?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, obviously, I will not comment on the document because what is stated therein, is a lot of imagination. But I will make my appropriate Statement.

Mr. Deputy Speaker: When would you like to make the Statement, Maj. Madoka?

Maj. Madoka: Maybe, Wednesday next week.

Mr. Deputy Speaker: All right, Wednesday next week.

MINISTERIAL STATEMENT

SECURITY SITUATION IN MERU CENTRAL DISTRICT

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, on 24th of October, 2001, Mr. Murungi requested for a Ministerial Statement regarding the security situation in Meru Central District, especially in Imenti North Constituency. In this connection, I wish to state the following:-

On 13th October, 2001, at about 8.00 p.m., within Ngonyi Market, eight gangsters, one of them armed with AK-47 rifle, raided a shop belonging to Mr. Patrick Gituma. The gangsters stole Kshs8,000 in cash and cigarettes valued at Kshs1,500. While escaping from the scene, the thugs accosted Mr. Edward Mugambi, whom they shot and injured on both legs. The victim is still admitted at Nkubu Mission Hospital.

On the same day, at about 7.15 p.m., between Igoji Bus Station and Igoji Teachers Training College, four gangsters armed with assault rifles alighted from a mini-bus en-route from Meru Town. At the same time, one Joyce Kithinji also alighted and was attacked by the gangsters. She raised an alarm and members of the public went to her rescue. This prompted the thugs to open fire, killing Messrs. Joseph Kinyua and Charles Mwarania Gakira.

Two suspects have been arrested in connection with this incident and once investigations are complete, they will be arraigned in court.

On 14th October, 2001, at about 8.25 a.m., a report was made by Messrs. Esokon Kierio and Peter Lokitar that they had seen remains of dead persons at the border of Isiolo and Meru Central on the 12th of October, 2001. The police accompanied the reportees to the scene where they found the following items: One human skull, a complete human lower jaw, a brown T-shirt, a cap and a belt, a pair of black leather shoes and a white trouser. Ms. Pascalina Karento later identified the brown T-Shirt as belonging to her brother, Alexander Nyamu M'mathi and the white trouser as belonging to her other brother, Kirinya M'mathi. Mr. Stanley Muraga identified the black shoes, the belt and cap as belonging to his son, Simon Kimathi. No bodies were found at the scene, and there is a possibility that they had been eaten by wild animals. At the moment, there is no evidence to corroborate allegations that the three persons were killed by armed bandits. However, the human skull and lower jaw were taken to Isiolo District Hospital for onward transmission to the Chief Government Pathologist for further investigations and analysis.

In view of the happenings between 12th and 14th October, 2001 the security personnel in Meru Central and Isiolo districts have intensified security patrols with a view to apprehending armed criminals who operate in the area. Two suspects have already been arrested and are assisting the police with useful information. I am satisfied to note that since 14th October, this year, no incidents of armed thuggery have been reported in Imenti North Constituency. I would like to assure the residents of the affected areas that the Government will continue to protect them and their properties from criminals. However, the people should also volunteer information so that our security personnel can operate effectively.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Ndwiga: Mr. Deputy Speaker, Sir, is the Minister satisfied that the increasing incidents of insecurity in Eastern Province, with the exception of Meru, are as a result of inefficient personnel in the Provincial Administration and the Police Force, who apart from doing their job, are engaged in politics? These officers have abandoned their duties. Is the Minister satisfied that, that is not the reason why we, the people in Eastern Province have to experience rampant insecurity?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, unless I get specific cases of the officers involved, I can say that I am satisfied that we have got the right officers.

Dr. Kulundu: Mr. Deputy Speaker, Sir, the Minister has talked about removing some of the human remains from the scene of murder or death and transmitting the same to the Chief Government Pathologist, here

in Nairobi. Would it not have been better for the forensic pathologist from Nairobi to be flown to the scene to inspect it and look at the position of the remains in order for him to come up with credible evidence? He has already interfered with very vital evidence that could have led to the possible cause of death of these people.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, the necessary photographs of the scene of crime were taken and they will be useful.

COMMUNICATION FROM THE CHAIR

MOTION RULED TO BE SUB JUDICE

Mr. Deputy Speaker: Order, hon. Members! On Wednesday, 7th November, 2001, during debate on Private Members' Motion, I undertook to make a ruling on a matter which was before the House, namely, whether a Motion filed by the hon. Member for Gichugu, Ms. Karua, impinged on the *sub-judice* rule as alleged by the Minister for Mineral Exploration, Mr. Kalweo. The Motion reads as follows:

THAT, in view of the public outcry over the mining contract/concession granted by the Kenya Government to Tiomin Inc. of Canada, this House resolves that the Government suspends forthwith the said contract/concession and sets up a Select Committee consisting of the following persons:-

Hon. Martha Karua, M.P.
 Hon. Emmanuel Karisa Maitha, M.P.
 Hon. Suleiman Kamolleh, M.P.
 Hon. Mohammed Abdi Galgalo, M.P.
 Hon. David Murathe, M.P.
 Hon. Njeru Ndwiga, M.P.
 Hon. Peter Oloo-Aringo, M.P.
 Hon. Darius Mbela, M.P.
 Hon. Musikari Kombo, M.P.
 Hon. Dr. Abdullahi Ali, M.P.
 Hon. Jimmy Angwenyi, M.P.

and that the Committee shall investigate the said contract/concession with a view to ascertaining whether:-

- (a) it complies with international and local environmental standards;
- (b) such contract/concession offends international law and human rights instruments, and in particular the international covenant on civil and political rights, and;
- (c) the said contract/concession is for the mutual benefit of the people of Kenya and Tiomin Inc. and further make appropriate recommendations to the House within nine months.

Hon. Members, the gist of the Motion is a dispute between a mining company and the local community over *inter alia*, environmental concerns arising from the proposed mining project. From available records, the mining company applied for and was granted a prospecting licence by the Government. The company, after establishing that the minerals it was prospecting were available and in sufficient quantities to warrant economic exploitation applied for a mining licence from the relevant authority. However, before this is granted, the company is expected to comply with the provisions of the Environmental Management and Co-ordination Act of 1999, leading to the issuance of an Environmental Impact Assessment Licence.

I am reliably informed that the mining company has been corresponding with the relevant Government authorities on the matter. Nevertheless, a mining licence has not been issued. In the meantime, several people, while exercising their right under the Constitution and the appropriate environmental law, have filed suits in the High Court of Kenya as follows:-

(a) At Nairobi, Miscellaneous Application No.1123 of 2000 by interested parties, namely, Prof. Katama Mkangi, Dr. Gideon B. Hanjari and Ngorongo Makanga seeking leave to apply for an order of prohibition against the Minister for Environment and Natural Resources, National Environmental Management Authority and the Commissioner of Mines and Geology prohibiting the issuance of Mining leases and licences to Tiomin Inc. of Canada, Tiomin (K) Ltd. and Kenya Titanium Minerals (EPZ) Ltd. over any mining project in the Coast Province of Kenya. This suit is pending before the court.

(b) At Mombasa, representatives of the local community, namely, Mr. Rogers Muema Nzioka and two others have made an application under Civil Case No.97 of 2001, which has three main parts; first an injunction to restrain the company from carrying out acts of mining in any part of land in Kwale District, secondly, a

declaratory order that the mining being carried out in Kwale is illegal, and thirdly, for general damages. This suit was filed simultaneously with chamber summons for injunction that the court do restrain the defendant from undertaking any action of mining in any land in Kwale District. The court has granted a preliminary injunction. The mining company has appealed for the High Court order to be discharged and/or set aside.

[Mr. Deputy Speaker]

Hon. Members, Miscellaneous Application No.1123 of 2000 is based on the following grounds among others:-

(a) That the applicants are Kenya citizens and are entitled to a clean and healthy environment whose protection is guaranteed under Section 3 of the Environmental Management and Co-ordination of 1999.

(b) That, if the proposed mining project proceeds, it will cause injury to the area residents and to the environment.

(c) That, it would lead to destruction of human settlements to carve out the 56 square kilometres zone and removal of over 6,000 people from their ancestral lands;

(d) That, it would contaminate water resources including over 200 boreholes, which were constructed by SIDA in the mid 1980s, which Kwale and a quarter of Mombasa residents rely on for drinking water, from Marere works.

(e) That restoring the land to arable state will be impossible as the proposed mining will be up to 40 metres deep.

(f) That the proposed mining project is an economic exploitation of Kenyan natural resources by foreigners contrary to the spirit of the Act; and,

(g) That the project proponents have offered a meagre Kshs9,000 per acre to the residents as relocation compensation, and a further Kshs2,000 per acre as annual leasing fee which compensation is totally inadequate.

Civil Case No.97 of 2001 is based on the following facts:

(a) That excavation of titanium is likely to trigger multifarious environmental and health problems; and,

(b) That the mining company should give reasonable compensation and to settle the residents in a new place and to build schools and hospitals there.

Hon. Members, my understanding is that the plaintiffs are not against envisaged mine project, *per se*, but are opposed to the manner in which the project is being implemented; which the court is expected to consider and make a decision upon.

The Motion proposed by hon. Martha Karua seeks to establish whether the project:-

(i) complies with the International and Local Environmental Standards,

(ii) offends international laws and human rights instruments and, in particular, the International Covenant on Civil and Political Rights;

(iii) is of mutual benefits to the people of Kenya and Tiomin Inc.

In my view, these issues are intertwined with the players by the applications in the Miscellaneous Application No.1123 of 2000 at Nairobi and Civil Case No.97 of 2001 at Mombasa.

It is not my duty to determine the merits or demerits of these suits. I am, however, obligated to guide the House on matters of procedure and, in this particular instance, the application of the *sub judice* rule.

Hon. Members, the Chair has made numerous rulings on the principle, scope and nature of *sub judice*, for example, on 1st November, 1966, the Chair ruled and I quote:

"The principle is that Parliament and courts of justice must respect each other and Parliament must not interfere with or prejudice by their own discussions the proceedings of a court of law, any more than they expect them to interfere with the proceedings of Parliament...."

And again, on 6th January, 1993, the Chair stated, and I quote:

"If a *prima facie* matter is pending in court, the House cannot enquire into the merits or distinguish what aspect of that court matter that we shall deal with. We all know the rule of *sub judice* and appeal to hon. Members and ask them not to water down the rules of *sub judice* in this House because, if you discuss it outside this House, you will be guilty of contempt of court. It is for good cause that matters pending in court shall not be discussed in any other forums, including Parliament."

Hon. Members, when making these rulings on *sub judice*, the Chair is guided by practices and traditions of our sister Commonwealth Parliaments. But our rules of procedures on *sub judice* provide:

One, Standing Order No.37(10) states: "Reference shall not be made into a question on any particular matter which is *sub judice*."

Two, Standing Order No.74 says: "No Member shall refer to any particular matter which is *sub judice* or to any matter which in its nature secret."

This matter is not secret. I think it is already in the public domain. However, hon. Members, after consideration of this matter, it is my view that the main thrust of the Motion filed by hon. Martha Karua touches substantially on a matter currently before a competent court of law. Until the suits are heard and determined, therefore, this Motion shall remain *sub judice* and will accordingly be deferred.

Mr. Maitha: On a point of order, Mr. Deputy Speaker, Sir. It is a historic judgement that you have made to this House.

An hon. Member: It is a ruling!

Mr. Maitha: Ruling is the same as judgement. You must go back to school, you people!

(Laughter)

Mr. Deputy Speaker, Sir, the ruling by Chair dealt with the specific case of Kwale District which is pending before the court. Titanium is not only found in Kwale District, but all over the coastal region. In fact, the first 200 million metric tonnes of titanium deposits were found in Kwale District. There are 700 million metric tonnes of titanium deposits in Mamburui. There are also about 500 million metric tonnes in Mombasa and about 1,700 metric tonnes in Sokokia. People of these areas have not gone to court. After the company excavate titanium in Kwale District, I believe they will find their ways to other areas where there are titanium deposits. Do you want to tell us that Parliament will wait until people in those areas can complain before we act? This matter touches on the coastal region. We feel that Tiomin inc. of Canada is being supported by one Member of the Cabinet who is associated with that company. We appreciate your ruling. But, please, have mercy on the coastal people.

Mr. Deputy Speaker: Hon. Members, nobody has concern as the Chair because I happen to have been a Commissioner of Mines and Geology when this matter first surfaced and I faced these same problems. At that time the company applying for the licence was not Tiomin inc., but it was Pecine St. Gobain of France. Because of their inability to satisfy the conditions that we thought were in the benefits of Kenyans, that licence was not issued. The issue before me today was not the presence of this mineral all over the country, but in respect of the Kwale project, because that is the one upon which an application has been received and the Government is giving consideration. So, I am as concerned as the people of Kwale or Kilifi, that their environment must not be affected and when they will be moved, I agree that they should not merely be paid compensation, but given an alternative land and they will be missing there, also replaced. So, I am as sympathetic as you are with people of Kwale. I hope the Minister is here listening that when he should receive an application---

Mr. Maitha: Your ruling did not affect other areas!

Mr. Deputy Speaker: Order! My ruling was in respect of the Motion before us.

Hon. Maitha, this is a very sensitive issue and if hon. Members have feelings about it, I think it is my responsibility to give them an opportunity to express those feelings.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. The ruling by the Chair, although we cannot contest it, it is most unfortunate. Because it is relegating this Parliament to irresponsibility. To suggest that, because a matter is in court, Parliament cannot embark on its legitimate duty to formulate policy and see whether laws are adequate or inadequate in protecting the environment, actually then it means that Parliament has no role. This is because all matters that are discussed in Parliament, in one way or another, find themselves before courts of law with litigants.

Mr. Deputy Speaker, Sir, we have failed to appreciate the fact that the Motion was addressing broader policy consideration. Knowing the duration our courts take, this case was filed in the year 2000 whereas activities in Kwale and coastal region by Tiomin Inc. of Canada are continuing, one year later. The case has not even reached a hearing stage. It appears this House, therefore, is putting a seal of approval to activities that the Chair acknowledges are not legitimate because environmental concerns have not been addressed. The message we are giving to Kenyans is that this Parliament is more keen to protect the interests of the individuals. I will repeat my colleague's concern that we feel that the protection here is for a single Member of the Cabinet and Tiomin Inc. of Canada because their interests have been preferred over the interests of Kenyans. I think this is a ruling that would merit reconsideration.

Another concern is that the Chair, in its ruling, allude to information from other sources other than information given before this House. It leaves us worried. What are these "other sources"? Are they interested sources? The fact that the Chair did allude to having come across the source before coming to Parliament, should the matter, therefore, have been dealt with by a separate party? This is an issue that touches on the lives of Kenyans. We are allowing Kenya to go to slavery by mortgaging our birth right; our national resources.

Mr. Deputy Speaker, Sir, could you consider reviewing your ruling, disclosing the sources of your information so that further submissions are made?

Mr. Deputy Speaker: Order! The Chair is guided by two things: First, the precedents set here and other Commonwealth jurisdictions. We have Standing Orders here which stop us from discussing matters which are *sub judice*, but hon. Members, the power is in your hands. If you want to remove the *sub judice* rule from our books, go ahead and do it, and the Chair will comply. In the meantime, the Chair has no powers to override what is provided in the Standing Orders.

Secondly, nobody is more frustrated than the Chair about this rule, because we have matters that Parliament ought to have discussed ten years ago, for example, the Goldenberg scandal and yet that is one of the biggest scandals involving finances of this nation. The Chair wants these matters discussed, and hon. Members will do the Chair a whole lot of good by making proposals for amendment of that rule, so that we may tell the court, from now on, if it does not complete a matter before it in a month, six months or one year, we shall not be tied to that rule, and we shall proceed to discuss the issue. If that is what hon. Members want, bring an amendment to the Standing Orders so that we can get rid of it.

There are jurisdictions where, in fact, they have gone easy on the *sub judice* rule on the basis that, if a Judge will be influenced by what he hears in Parliament in making his ruling, then he really ought not to be a Judge. Hon. Members should amend the rules and the Chair will gladly comply. This is a matter where the House must express itself clearly.

Mr. Ndwiga: On a point of order, Mr. Deputy Speaker, Sir. While appreciating your ruling, this matter is already being dealt with by a Departmental Committee of this House. The issue is that the Departmental Committee cannot go into certain issues. Already, some of the issues you referred to like the case in Nairobi with regard to Tiomin Incorporation appealing against a ruling that they stop mining, yet you said in your ruling that no mining licence has been granted. A Departmental Committee of this House toured Kwale and noticed that mining is going on despite the fact that a licence has not been granted to Tiomin Inc. We have listened to Tiomin Inc. management and environmentalists and we know that one of the requirements was that Tiomin Inc. contracts local environmental assessors to give an environmental impact assessment. Instead, they contracted a company from South Africa which never even went to Kwale. They did no assessment, but gave a report, on the basis of which this Ministry went ahead and allowed the company to engage in trial mining. This trial mining is now real mining.

Mr. Deputy Speaker, Sir, this House is pleading with the Chair to reconsider your ruling because the effects of this mining are already being felt in Kwale District.

Mr. Deputy Speaker: Order! The Chair will clearly not revise that ruling. In any case, not now. What the Chair can do is to demand a report from the Minister on the current status of that business, so that we can know whether there is mining going on or not. In the case of whether there is a licence or not, there is a register in the Mines Department which is open to inspection by members of the public. So, we can quite easily establish whether a mining licence has been issued or not.

Ms. Karua: On a point of order, Mr. Deputy Speaker, Sir. Could I now attempt to amend my Motion?

Mr. Deputy Speaker: Order! A Motion can only be amended by the proposed amendment being signed and forwarded to the Chair for approval.

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. In your ruling, you mentioned that the whole issue relates to Ms. Karua's Motion as well as applications before the court. I believe it is for the good of this nation. As per the inscription at the entrance to this Chamber; "For the Welfare of Society and Just Government of Men", what the petitioners and Ms. Karua are saying here is for the welfare of the people of Kenya and, in particular, the people of the Coast Province. This House should try to sort out the issue. I agree with the Chair that it is our responsibility to review the laws and the Standing Orders in our books for the betterment of our nation, but I believe that, for a long time, people have hidden behind the *sub judice* rule so as to stop us from discussing certain issues. This House is setting a very bad and dangerous precedent, because in the future, a pertinent issue will come up and somebody will just rush to court and file a case. Then as long as the case is in court, whether for ten or 15 years, this House will remain gagged, and the operations of this House will have been stopped.

Mr. Deputy Speaker: Order! I have already told you that, if you want to change that rule, go ahead and do it. If you remove that rule, the Chair will only be too happy to implement the new ruling.

Mr. Ndicho: I agree with you, Mr. Deputy Speaker, Sir. My final submission is that---

Mr. Deputy Speaker: There is no submission here!

Mr. Ndicho: Mr. Deputy Speaker, Sir, I am sorry, they are not submissions. My understanding is that, the rule of *sub judice* only applies, if the matter has been mentioned adversely. Now, we do not know whether the

rule you have used to stop this discussion has adversely---

Mr. Deputy Speaker: Order! Hon. Members, what I have read is the ruling. If hon. Members wish me to make a different ruling based on our regulations, first, amend them and I will comply gladly. I will also participate in that amending process, because I too feel frustrated.

Mr. Munyasia: On a point of order, Mr. Deputy Speaker, Sir. For the benefit of the House, we have been discussing the Speaker's considered ruling which had been promised last week. Is it in [Mr. Munyasia] order that this House discusses the Speaker's considered ruling? I thought it was as final as the referees whistle. Once you say: "This is the ruling, the matter ends there". That is the way this House has been conducting its business.

Mr. Deputy Speaker: Order! As I said, this matter is of great concern and, the Speaker would be totally unfair if he were to refuse hon. Members to comment on his ruling. No matter how much we comment on the Speaker's ruling, it remains his ruling, but it is necessary that hon. Members let off a little steam.

Next Order!

(Motion deferred)

MOTIONS

CONSTRUCTION OF DAMS IN ASAL AREAS

THAT, in view of the changing patterns of rainfall in the country, being aware of the famine which affects Kenyans time and again, taking into consideration the recent rationing of water in major towns and some urban areas, this House calls upon the Government to construct dams in each district in the arid and semi-arid areas and also along areas in which the Tana, Athi, Turkwell and other rivers flow in order to provide constant water supply for domestic and irrigation purposes.

(Mr. Muniyao on 7.11.2001)

(Resumption of Debate interrupted on 7.11.2001)

Mr. Deputy Speaker: Who was on the Floor? Eng. Toro!

Eng. Toro: Mr. Deputy Speaker, Sir, we all know that water is life. Without water, there is no life. The provision of water to arid and semi-arid areas is of paramount importance to the people of this country. Therefore, the Government should take this Motion seriously. I am happy that the Ministry brought the amendments which we are discussing today.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, when we talk of Kenya being self-sufficient in food production, what that means is that Kenyans will not be importing foodstuffs from outside the country. The late President, Mzee Jomo Kenyatta, used to say, a country that cannot feed itself is a poor country. For a country to feed itself, it should receive adequate rainfall which is necessary for growing crops. But if there is no adequate rainfall, water should be provided for irrigation purposes.

Mr. Temporary Deputy Speaker, Sir, Kenya is blessed with rivers but the Kenya Government has not utilised this water to grow food crops. As early as 1970s, when the Ministry of Water Development was established, the Government promised that there was going to be water for all by the year 2000. But by the year 2000, we drifted further than we were in the early 1970s. There were many water projects started in the late 1960s and early 1970s. All those water projects have been neglected and are in dire need of rehabilitation.

Mr. Temporary Deputy Speaker, Sir, an example of this is the Kandara Water Project which came into being in 1970s. This was supposed to supply water to the residents of Kandara Constituency. It served less than half the population of that constituency before it was neglected. Currently, it is being rehabilitated through aid

from the French Government. We look forward to the day Kandara people will be able to enjoy clean water. The Government should see to it that the Kandara Water Project is expanded so that water can be available to all the residents of Kandara and Gatanga constituencies. Those two constituencies are served by the Kandara Water Project.

Mr. Temporary Deputy Speaker, Sir, most of the semi-arid areas like Ukambani, are potential agricultural lands. The Government should see to it that this Motion does not gather dust on the shelves after it has been passed. The Government should be serious about this Motion and look into ways and means of implementing the decisions of the House. The Minister for Water Development should not tell us that the Government is looking into ways and means of constructing dams. Feasibility studies should be commenced after this Motion has been passed so that those districts in the arid and semi-arid areas can be considered for funding by the Government. We have passed very many Motions in this House that require Government action and yet, no action has been taken. If the Government takes action on this Motion, we will be able to feed ourselves and also have surplus for export. It is unfortunate that we are importing food from other countries. For us to be competitive in the COMESA region, we should put our resources together by engaging our professionals. We should not allow [Eng. Toro] them to go and work outside the country. In fact, we should have a blue-print for building dams in all the arid and semi-arid areas.

Mr. Temporary Deputy Speaker, Sir, when there is drought, food production is affected. If we had adequate dams in the semi-arid areas, we would still be having plenty of food even during dry seasons. We would still grow a lot of food by way of irrigation. So, it is important that the Minister for Water Development does his best so that we can supply water by constructing more dams. We cannot have dams if we cannot take care of our water catchment areas. The most notable catchment areas are the forests. There has been hue and cry about deforestation. The Environmental Act is very clear on this matter, but the Government is not enforcing the provisions of the Act. They still allocate forest land to individuals for cultivation purposes, without taking cognisance of the fact that at the end of the day, even those people who have been allocated forest land will not have water. The rivers are rapidly drying up! Most of the river banks are now under cultivation and this is making our rivers to dry up. People should not be allowed to cultivate up to the river banks. If this situation is not arrested, then we are passing a Motion here which will have no effect. This water will have to come from somewhere!

I would also like to appeal to the Minister for Environment to restrict farmers who cultivate near the river banks, so that the lands near the river banks are not subjected to heavy soil erosion, as is the case now. If you care to note, where we used to have rivers and vegetation, there is nothing. We now have gulleys and a lot of soil erosion. The rivers in the gulleys are sinking deeper and deeper. The people who live near them are finding it very hard to access the little water that flows in form of rivers. The rivers have been reduced to streams and, unless the Government addresses that issue as a matter of urgency, in another five years, we will not have any rivers worth mentioning in Kenya.

With those few remarks, I beg to support.

The Assistant Minister for Local Government (Mr. Hashim): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity so that I can contribute to this Motion. This is a very important Motion. It is a Motion that touches on the lives of the people. Therefore, it should be given the importance that it deserves. We all know that water is life and, in fact, our holy Quran says that our lives are made from water. Therefore, water is a very important commodity for human rehabilitation. It simply means that if there is no water, there is no life. I am afraid to say that there are parts in this country where there is no life because there is no water! This country is divided into spheres. There are spheres which are very well developed and others which are under developed. Most parts of the under developed areas are in the arid and semi-arid areas. The development in those areas is at the lowest ebb. When it comes to water, it is a big problem.

Mr. Temporary Deputy Speaker, Sir, unfortunately, Lamu East Constituency is faced with acute water shortage. For the last 37 years of Independence, the Ministry has yet to come up with an appropriate proposal to make water available to the people of Lamu East. The only source of water that we have there is from rain water storage. We store water in jambias (?) which are water storage facilities. Those water storage facilities are never enough to last up to another rainy season. The lives of 30,000 people and their livestock are endangered because of the unavailability of water.

Mr. Temporary Deputy Speaker, Sir, provision of water is an option that will restore sanity to the Lamu residents. But, up to now, there is no serious measure which has been taken. The only alternative of water in that area is by pumping water from River Chomu to Mtangawada across the ocean. Another alternative is to instal a distillation plant. The Naval Base in Lamu uses water from River Chomu and yet, it has a distillation plant. It would be ideal for that plant to be given to the people of Lamu, so that they can be provided with portable water. It is just lying there idle and I do not find any reason as to why it is lying there, while the people

of Lamu are suffering!

Mr. Temporary Deputy Speaker, Sir, during the drought season, the people are forced to travel 200 kilometres in search of water using the local dhows. It is during that time that a 20-litre jerrican of water sells at Kshs30. You can just imagine how expensive the commodity would be, especially to a community which is already impoverished! As we all know, when one is poor, his children, in most cases, become poorer! The downward spiral of poverty is accelerated. That is the exact case in Lamu East Constituency. There is no water at Kizingitini, Dawo Island and Kiunga. In fact, some years ago, pipes were sent to Kiunga to carry water from Ndodore River to Kiunga residents. Those pipes are just lying there for the last 15 years and nothing has been done. That is taxpayers' money lying there. The pipes were bought by the Kenya Government, but the officers on the ground have failed to implement the project. We are faced with a serious problem.

Mr. Temporary Deputy Speaker, Sir, in fact, accessibility to water is a right to mankind in this world. It is a right to every citizen in this country. Therefore, the Government should do all it can to ensure that each and every individual in this country is supplied with sufficient water. But, today, that is not the case. The people are suffering just because they do not have water. Livestock are dying just because there is no water. The people of Ukambani and North Eastern Province are faced with serious problems. The Government has initiated some projects, but our dreams must always have deadlines. We must know exactly when we are going to implement those projects and how. But, in most cases, good theories have been there, but nothing has been implemented. The people are just suffering because there is nothing to drink.

For instance, take the Coast Province. There is plenty of water, but there is nothing to drink. There is the ocean water. In places like Saudi Arabia and Libya, they do not have water reserves. But they distil ocean water and use it. They have sufficient water. We just fail to understand why in Kenya, when we have plenty of water, there is nothing to drink! We do not understand why a Naval Base was given a distillation plant and yet, the local residents in that area are suffering! Another alternative was sought, but the Chomu River is being used by them and yet, the distillation plant is still there! It could give very good service to the people.

I would like to request the Ministry concerned to seriously consider the issue of water, so that each and every constituency in this country can enjoy those benefits. If something is done in some other areas while others are denied, that is pure discrimination. Some people will come to a conclusion that some marginalised groups are not being given serious consideration as far as development is concerned. They refer to themselves as "second-class citizens" because, in most cases, the entire development in this country is taken to areas where the people in the Ministries come from. But some other communities are just represented here in Parliament and there are no people to prepare their budgets. So, the biggest problem that we have is unfair distribution of resources. One step that the Ministry should take in that particular case is that there should be funds for each and every constituency to deal with the problem of water. If we reach that stage, I think, it will be a very good input and things will go on the right direction.

With those few remarks, I beg to support.

Dr. Wekesa: Thank you, Mr. Temporary Deputy, Speaker, Sir, for giving me an opportunity to air my views about this very important commodity. Every living organism requires water. This Government once said that by this Century every Kenyan will have piped water. I think we are far from that and I do not see it happening in the next 20 years, unless we kick out this Government and have one that puts agriculture as a priority area to invest money.

I have come to understand that we in Kenya have forgotten that this is an agricultural country. It is high time we realised that if we have to eradicate poverty in this country, agriculture must be number one. Most of the resources should be put in agriculture. Once we put both financial and human resources in agriculture, we will eradicate poverty. We will have drugs in our hospitals and people will be able to pay school fees. The living standards of every Kenyan will improve and we will eradicate all the diseases in this country because we will have money. I have always had a problem with the planning decisions in Ministries that are related to agriculture including this Ministry. Once upon a time - and I think this is still being practised - we used the wrong expertise in our feasibility studies. We have relied on foreign experts in doing our feasibility studies. It is high time we realised that we have our own people who can undertake feasibility studies in the various agricultural and scientific projects that the Government wants to undertake.

I have in mind feasibility studies that were taken in Trans Nzoia to establish a water project for Kitale Municipality. Some Germans came and selected an area on River Nzoia that was very unsuitable for the project. The water that is supplied to Kitale Municipality is pumped from this area. So, from time to time, we have silting. This is an area with low altitude, therefore, you need a lot of power to pump water to Kitale Municipality. The machinery is always clogging up. We have had problems in Kitale Municipality because of poor siting of this

project, whereas it would have been much better to have water from Mt. Elgon which would have come down by the force of gravity. It is high time that we used our own experts who know the local conditions.

It is unfortunate that the local county council has been blamed for the problems that have arisen in Kitale Municipality. I would like to state very clearly that the decision by the Government was uncalled for. Kitale Municipality has worked hard to recover the money. As we stated in a Press statement, most of the money that is owing to Kitale Municipality is owed by Government officers and politically-correct people. We are requesting these people to pay up so that Kitale Municipality can continue with its operations. We would also like to request that the investigations that are being carried out in Kitale Municipality should be withdrawn.

There are dams in Trans Nzoia that were built by the colonial Government. They are scattered all over Kwanza Constituency. These dams could have been rehabilitated, if we had good extension services and machinery within the Ministries of Environment and Natural Resources and Agriculture. We have dams that have silted over a period of time and these could be rehabilitated if the Government had good plans to look after them. I also concur with the Member for Kandara that cultivation near river banks and established dams will cause a lot of silting, thereby destroying the existing dams.

Mr. Temporary Deputy Speaker, Sir, I would like the Ministry, together with the Ministry of Agriculture, to have a provision for machinery that can be hired by farmers so that, if they want to construct new dams or rehabilitate them, they can do so. There is water everywhere in Trans Nzoia right now because we are receiving about 1 millilitre of rain daily. This rain is causing a lot of havoc to the farmers. We are asking the Government to open up the National Cereals and Produce Board depots so that they can buy maize and wheat that is rotting on the farms. We are worried about the effect of this current rain next season because no farmer has finished harvesting and none is selling any maize. Maize is being bought at Kshs400 per bag. Last year, we were selling our maize at Kshs1,200 per bag. We are asking the Government to save the farmers so that they can grow more crops next year.

Horticulture is a big industry. We should utilise the facilities we have in this country and expand the irrigation schemes. We cannot expand irrigation schemes unless we have planners within the Ministries of Environment and Natural Resources and Agriculture. There is great potential in horticulture. Vegetables are very important commodities to peasant farmers in Taveta, Murang'a, Karatina and other areas. Kenya could earn a lot of foreign exchange if the Government paid enough attention to agriculture.

Mr. Temporary Deputy Speaker, Sir, I say it again, and I will keep repeating, that the Government we are going to form next year, will make agriculture---

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Kihoro): Order, hon. Dr. Wekesa. Hon. Members, we have come to the end of the debate on the Motion and I call upon the Mover to reply to the debate.

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir, but would I be in order to donate two and a half minutes each to hon. Chanzu and a "totally arid" Member of Parliament, hon. Katuku?

The Temporary Deputy Speaker (Mr. Kihoro): Yes, you can do that.

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Thank you, Mr. Temporary Deputy Speaker, Sir.

Water is the most essential natural resource for life. The landscape in this country is such that water flows into various rivers which would serve the country very well. However, I think because we have not put in place measures which can contain this water, we have the problem of most of the water going to waste. We have many rivers but most of the water goes to waste. With this Motion and money being made available, I am sure we should be able to control and contain the flow of some of this water so that it can be used for domestic, agricultural and even industrial.

Mr. Temporary Deputy Speaker, Sir, it is also evident that we get a lot of rain in parts of the country but it again ends up in these rivers and most of it flows out of the country. This Motion is, therefore, very timely so that we can contain this wastage. The country also has got fertile soils in some parts but because of drought, we are not able to exploit this fertility. The Motion comes in very handy and timely. We should be able to do this, if money can be made available. A good example is the *El Nino* rains of 1997/98. All this water went to waste and we ended up with drought again but, if we had such measures in place, we would not be experiencing the recurring problem of drought.

Mr. Temporary Deputy Speaker, Sir, another very good example again is Lake Victoria. Kisumu suffers due to lack of water and yet there is Lake Victoria there. I would like to urge the Ministry to implement the water policy of 1999 so that some of these problems can be tackled. Of course, along with this, measures will also go hand-in-hand so that water is properly treated for domestic use.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Katuku: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I also want to thank hon. Munyao for donating the two and a half minutes to me. It is worth it, bearing in mind that I come from an arid area. I represent a constituency which has always experienced a problem of drought caused by lack of water. Almost throughout the year, my constituents rely on relief food. So, I would want to say from the outset that this is a very important Motion in view of the fact that water is a key component.

Mr. Temporary Deputy Speaker, Sir, one thing I would want to underline is that, if this Government was serious and constructed one dam in every village, that apart from providing water for domestic and livestock use, it will also be able to raise the watertable in that given area. When the watertable is raised and once short rains come, obviously, whatever crop had been planted in that area, would be able to mature with that aspect of water being nearer the surface. So, it is crucial that the Government undertakes to do exactly what it has promised through the Minister, that he will endeavour to construct dams in this area. That is very crucial.

Mr. Temporary Deputy Speaker, Sir, in my Mwala Constituency, we have dams almost in every location which were constructed by colonialists. They have all been silted and I would want to appeal to the Ministry to take serious measures to desilt these dams which are very crucial for water in my area. If they could desilt these dams and construct others in every village, our people would have, at least, some water to drink and for livestock use.

Mr. Temporary Deputy Speaker, Sir, I would also want to urge the Ministry that water in my area, especially from Athi River, has been polluted and I would like it to take serious measures to ensure water pollution is taken care of.

With those few remarks, I support.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, I beg to donate one minute to hon. Keah.

The Temporary Deputy Speaker (Mr. Kihoro): Yes, but it should be half a minute.

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir. I thank hon. Munyao for giving me a minute and I will take half a minute. Water is life. This Motion is excellent. I would like to support this Motion in totality and ask the Ministries of Finance and Water Development and all those relevant Ministries to make sufficient funds available for the construction of these dams in the areas that have been indicated here. They should also indeed try to trap and harvest all the rain water that finds its way into the Indian Ocean and elsewhere which is really wasted.

I beg to support.

Mr. Munyao: Thank you, Mr. Temporary Deputy Speaker, Sir. First, I would like to thank the 12 hon. Members of Parliament who have contributed, including the last speakers, hon. Keah and hon. Hashim and all these other Ministers and Members of Parliament who have supported this Motion. This is clear evidence that water is fairly important and I beg to move that we continue working in unison, even at that time when we will be asking the KANU Government to retire because we want another Government to bring better solutions. We need to be together. "*Tukisema sasa mumechoka, tokeni na sisi tuingie*".

Mr. Temporary Deputy Speaker, Sir, I would like to say that this Motion affected all the 210 constituencies, Baringo Central included. Therefore, I am taking it that the whole of the National Assembly and the country has supported it. Like hon. Keah says, that he knows a lot of mathematics, therefore, he has got confidence that if we give the Minister concerned enough money, he will implement what we want.

Mr. Temporary Deputy Speaker, Sir, the issue here is that of implementation. Many Motions go through, but they are never implemented. I thank the Minister for the amendments he made because that is the right way. In fact, it was an oversight because I had specified some rivers. He now said "all rivers" and that is good and fairly generous. We have got sites all over the country already meant for the dams. Let them now be given titles and secured against the possible grabbers because they will have to be used later. We should begin immediately with the money available. Let us source the money within our taxpayers and even outside purely for water and this will be fairly important.

Mr. Temporary Deputy Speaker, Sir, we have got Yatta furrow which runs from Thika to other areas. The furrow produces enough vegetables and fruits for the markets in the Nairobi City and other parts of the country. If we have another more furrow, Kenya would even be better. Therefore, I am suggesting to the Minister that he looks into the possibility of constructing another furrow; from Athi River, near Mwala, which will run alongside and up to Mtito Andei, on this side of Machakos. This is because the other furrow is in Yatta. If that additional furrow is established, we are sure that the areas which have been perennially suffering would be able to produce enough food.

We want areas in North Easter Province (NEP) to grow cotton. We want every arid area to be as green as possible. We have got fertile land but the problem is lack of water. With a clear water policy, we are calling upon

the Minister whom we are now seeing fairly committed to serve this country--- This country's problems, like drought and famine will be solved. In fact, if we keep the farmer busy in this country, the issue of employment will be an issue of the past. One of the best ways of reducing or eradicating poverty is to make sure that the farmer is supported. Enough water should be availed to our farmers wherever they are. I fully thank the Minister, and by extension, his members of staff and the House for supporting this Motion. Let the Motion be implemented.

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

Resolved accordingly:

That, in view of the changing patterns of rainfall in this country, being aware of the famine which affect Kenyans time and again, and taking into account the recent rationing of water in major towns and some urban areas, this House calls upon the Government to construct dams in each district in the arid and semi-arid areas and along areas in which the Tana, Athi, Turkwel and other rivers flow in order to provide constant water supply for domestic and irrigation purposes.

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

REGISTRATION OF CHURCHES AND RELIGIOUS ORGANISATIONS

THAT, considering the big number of churches and religious organisations in the country; noting that all religious organisations are currently registered under the Societies Act; further being aware of the unnecessary delay in registering these organisations due to the large number of applications by persons wishing to register their societies, this House urges the Government to introduce a Bill for an Act of Parliament to deal specifically with the registration of churches and other religious organisations.

The Temporary Deputy Speaker (Mr. Kihoro): Hon. Members, I have information that this Motion should be deferred. We should move to the next Motion.

(Motion deferred)

PRIVATISATION OF MZIMA SPRINGS II PROJECT

Mr. Mwakiringo: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the significant role water resources play in day to day life; and being aware of the insufficient water supply in both Eastern and Coast regions, this House urges the Government to privatise the construction of Mzima Springs II in order to supply water to Mombasa and all towns along the pipeline for human consumption and irrigation.

As you are aware, it has been said all along that water is life. That means that without water, we cannot survive, and also trees and other natural beings cannot survive. As you are aware, Mzima Springs which was constructed over 50 years ago, is now becoming useless because its book value is now zero. It cannot sustain the increased population and we need more water to match the current population growth. The whole purpose of bringing this Motion is so that, the Mzima Springs I should be supported by another one because we still have sufficient water to sustain the population and the second pipeline.

That is why we are requesting the Government to allow the privatisation of the same because we want to industrialise by the year 2020. We cannot industrialise when we do not have sufficient water and when we do not have sufficient electricity. The reason is that we can use the same water which will be going to Mombasa and parts of Eastern region to create and generate electricity along the way. This was confirmed when we went to the Australia in September, where we were told that a pipeline supplying water to Sydney (?) was diverted by half a kilometre to be used to generate power in a sub-station. Again, it was diverted back to its main line, so that it is treated and supplied to urban residents in that area of Sydney. We are saying that, that can also be applicable to Mzima Springs II on its way to Mombasa. That will supply water, which can be used to generate energy for industrialisation.

As you are also aware, we need to improve our education standards in the Coast. That can also not be done when we do not have enough water to supply the tertiary institutions with water. Currently, you know that we

have the Taita Taveta Teachers Training College which has been a white elephant since 1992. The water supply to the College is insufficient. If the College was to carry out an intake of students, that water would not be sufficient. It must be rationed for the institution along with the residents who live in those areas. That means that it would be easy to get water at night and the other residents would get water during the day in order to fill their tanks. We are requesting the Government to privatise the Mzima Springs II. Those are some of the reasons why this has to be done expeditiously so that we can also improve our education.

Now that we are also fighting for the start of a university along the Coast, that will do a lot of justice to the establishment of this project. This is because we also need human resources and this can only be done when we have well-learned people from the Coast Province because it is lagging behind in terms of education; university and other tertiary institutions.

The privatisation of the pipeline will, definitely, improve the health situation because a human being cannot be healthy when he or she does not have enough water for his or her consumption and even for agriculture and other domestic use. We are saying that with enough supply of water from Mzima Springs II, human health will be improved tremendously as the Government is geared towards the eradication of poverty. That will improve the economic situation of our people along the Mzima Springs and also for our animals. This is because along the way, from Mzima Springs to Mombasa, we have a lot of ranches along the Nyika Plateau and that will assist animal farming for ranches which are there and which are almost collapsing because of lack of water. As you are aware, and as I have said earlier, the Mzima Springs I has outlived its usefulness because the book value is zero and the maintenance has become almost impossible.

Even now, we have a lot of water deficit to sustain the residents of Voi-Maungu-Macknon Road, Taru, Samburu, Mariakani and even Mombasa itself. The establishment of this second pipeline will provide continuous water supply and sustained water supply to these towns. The pipeline would create more hotels in towns which are along the pipeline like Voi, Samburu, Macknon Road and other areas because that region is a tourism centre of this country.

Mr. Temporary Deputy Speaker, Sir, availability of water will facilitate industrialisation and a lot of agricultural activities, both large and small-scale. Some water can be supplied to the nearby national park during the dry seasons thereby maintaining the wild animals within the park, and hence promoting tourism. As I said, we cannot eradicate poverty when we do not have sufficient water. As you are aware, soils in the coastal and eastern regions of this country are very rich. The only handicap we have in those areas is lack of water. Once the pipeline becomes operational, the people living along it will be assured of tapping its water for both domestic and agricultural purposes. They will use the water for both large and small-scale irrigation and empower themselves economically. The current water supply cannot even sustain Voi Town. So, water cannot reach Mariakani, Mazeras and Mombasa.

The Coast Province is this country's hub of tourism, but the current 60 per cent water flow to the area is insufficient. We want to create and promote tourism in our areas. Therefore, we need enough water. We have water deficit. That is why we need a second pipeline to supply water along that area. I have brought this Motion before the House because the Government had taken the initiative of building the water intake for this pipeline. If you go to Mzima Springs today, you will find that the water intake for this pipeline is ready to be fitted with pipes for transmission of water to Mombasa. But due to corrupt practices by some people in the Government, the pipeline has not been built 15 years after the construction of its intake at Mzima Springs. I am very sad about this.

The intake at Mzima Springs was designed to increase the capacity of water supply by more than 200 per cent. The project could not take off because somebody in the Government has been demanding a kick-back from the would-be-contractor. For how much longer is that corrupt individual in the Government going to keep such an important project in suspension? Why have we let our people suffer all these years because of some corrupt individuals in the Government? Why do we not industrialise and create employment? Why do we not increase the tourism facilities by supplying more water, because of a corrupt individual in the Government? So, the Government should hand over the project to a private developer. We have quite a number of private developers who can competitively bid for the project and construct the pipeline at a low cost. That way, we can enhance and sustain the water supply among the communities living along the pipeline from Mzima Springs. Individuals and ranches found along the pipeline can benefit from the project and become economically empowered and create employment for our people.

Mr. Temporary Deputy Speaker, Sir, it is very sad that this Government impoverishes the people deliberately so that it can misuse them during elections. I am bitter that my party lost a civic seat in Voi by a margin of 86 votes simply because some of the voters were given maize flour which had expired. They voted for KANU only to complain later on that they could not consume the maize flour supplied to them because it was sour and bitter; the maize that had been ground into flour contained weevils. A similar incident happened in Kilome

recently. The Government dished out money, maize flour and sugar. People were issued with just a day's ration of these commodities for them to change their minds and vote for the same Government which has been impoverishing them. Let us come out clear on these things since we are now in a new millennium and age.

We are now being told that the leadership of this country should be handed over to the *dot.com* generation. I agree with that call. The only problem is that the *dot.com* generation being propped up will be used by the old guard to protect themselves once they relinquish power. We will never make headway, if we continue to impoverish our people to maintain a few wealthy individuals. Kenya needs not be poor because its population comprise of hard-working communities. Once provided with water and energy, Kenyans need not flock into the City and major towns such as Mombasa, Kisumu and Eldoret. They can sustain themselves in the rural areas just like people in developed countries.

Mr. Temporary Deputy Speaker, Sir, the United Arab Emirates (UAE), which is in a desert, transforms sea water for domestic and irrigation purposes. It is a pity that Kenya, with all its vast natural resources, cannot tap them for her own development. UAE pumps water from the sea, which it uses to irrigate trees and flowers along long distances on its roads. Kenya, with its vast natural resources and the manpower we have trained to develop the water sector, cannot tap our water resources for our betterment. What has gone wrong? Why does the Government present nice policy papers, promising to develop certain sectors by a given time when we have not set our priorities right?

The problem with us Kenyans is that we would like to be the planners, the implementors and the beneficiaries of our plans at the same time. If we could plan today and let our children implement our plans in years to come with the beneficiaries of our plans being our grand children, Kenya would make headway in its development efforts. We are agriculturally very stable, but we have failed to tap our natural resources. Why do we spend a lot of public money on State visits? Government Ministers and parastatal heads accompany the President wherever he goes. They use a lot of limousines, which consume a lot of tax money. Why do we not save that money for the generation of enough water for irrigation and domestic use?

The Government would want to see Members of Parliament become poorer than their predecessors. Because we have increased a few coins to our income, "temperatures" have risen very high in some people. Why? We are also human beings. We must live by example. This means living in a house with a zero-grazing unit, a decent water tank and a decent car outside it. This way, other leaders will be attracted in future to contest the seats that we occupy now. We should retire after two parliamentary terms and give chance to younger people to lead. But we tend to want to stay on for years. That is why corruption has persistently continued to affect our system.

Mr. Temporary Deputy Speaker, Sir, the Eighth Parliament has effected a lot of changes in this House. I am happy that this House now has Departmental Committees and some "teeth" to bite where some things have gone wrong. Leaders who are in the system should hear what we are saying so that they can change for the betterment of this country. The Government always says that Opposition hon. Members of Parliament are the ones who block aid from the World Bank and the International Monetary Fund (IMF). We do not want to see our people being impoverished by not having donor funds.

This is our own money and we will repay it. It should come. We in the Opposition are supporting donor funding, but we are saying that it will still be misused because those who are still in power are the ones who impoverished our people and mismanaged the economy. They should change. They should hear the voice of the people. They should hear the voice of the Parliamentarians in this Eighth Parliament, that a change is inevitable. We need a new management which can manage our natural resources properly for the development of this country and the local resources for the betterment of our children.

I would urge hon. Members from both sides of the House to support this Motion. At the same time, I urge the Government to implement hon. Members' Motions expeditiously. This is a national issue. The Government should not say this or that Motion is from the Opposition or from the KANU side. Once an issue is national, the Government should take it seriously and implement the same. If any assistance is required from us, we will give the same. But we want to make a change. If the country was committed to good management since 1963 when we attained Independence, our taxation level would have been lower than in any other developing country in the world.

With those few remarks, I beg to move and ask Mr. Badawy to second the Motion.

Mr. Badawy: Bw. Naibu Spika wa Muda, ninamshukuru mwenzangu Mhe. Mwakiringo, kwa kupendelea niwe wa pili wake katika Hoja hii. Nili kuwa ninajitayarisha leo niongee kimombo, lakini wenzangu wawili hapa wamenisihia sana niongee Kiswahili. Wamesema wanapenda kusikiliza Kiswahili cha Pwani.

Ningeanza kwa kuomboleza vifo vya wafanyakazi wa Wizara ya Maji katika sehemu ninayowakilisha ya Malindi, ambao walipatwa na ajali ya barabarani na watu saba wakafariki. Huo ni msiba mkubwa sana kwa watu wa Malindi, hasa tukikumbuka kazi nzuri sana ambayo maafisa hao, pamoja na wasaidizi wao, walikuwa

wakifanya kuhusiana na huduma za maji.

Bw. Naibu Spika wa Muda, ni sadifa nzuri leo kwamba hii ni mara ya tatu Bunge linazungumzia mambo tofauti tofauti kuhusu maji. Asubuhi kulikuwa na Swali kali sana juu ya malipo ya maji. Kulikuwa na Hoja iliyoletwa na Mbunge mmoja na tukaipitisha. Hii ni Hoja nyingine sasa, na ikiwa kuzungumzia maji kunadhihirisha jambo lolote, kunadhihirisha umuhimu wa maji na kutoridhika kwa Wabunge, kama viongozi ambao wanawawakilisha watu wao, kutotosheka na hali ya ukame wakati nchi hii inaogelea katika maji.

Ninaunga mkono Hoja ya Mhe. Mwakiringo kwamba ni vizuri kuwe na ubinafsishaji wa Mzima Springs II, ili iweze kunufaisha zile sehemu ambazo amezitaja katika Hoja yake. Tukifikiria yale matatizo yaliyoko katika usimamizi wa maji katika Wizara ya Maji na shirika la kitaifa la maji na bomba, tutaona kwamba fikira hiyo ya Mhe. Mwakiringo ni lazima tuiangalie kwa ukundufu zaidi katika nchi nzima. Kitu ambacho kinaleta utatanishi katika huduma yoyote ni kukosekana kwa kile kitu chenyewe. Lakini hatuwezi kusema kwamba hakuna maji nchini Kenya wakati mifano mingi sana imetolewa hapa ya nchi kama vile United Arab Emirates na Saudi Arabia ambazo tunaweza kusema ni nchi tajiri. Hizi nchi zinatoa maji ya kunywa na kutumiwa nyumbani kutoka baharini. Sisi tuna bahari kubwa sana hapa. Tumemsikia Mbunge mmoja hapa akisema kwamba imeonekana hakuna haja ya kuipatia sehemu ndogo ya jeshi la Kenya maji kutoka baharini, na hali wananchi wanaowalinda hawana maji ya kunywa wala kupikia. Lakini ukweli ni kwamba, Kenya imebarikiwa kuwa na maji mazuri katika sehemu mbali mbali. Tuna mito miwili mikubwa ya Athi, ambao tunauita Mto Sabaki kule kwetu Malindi, na Mto Tana, ambayo inamwaga maji yake baharini, kama vile Mhe. Keah amesema hapa dakika chache zilizopita.

Wizara ya Maji imeshindwa kutosheleza mahitaji ya maji ya watu. Imeshindwa kusawazisha bei ya maji. Hata watu ambao wanapatiwa maji, hawapatiwi kwa bei ambayo wanaweza kulipa. Hii ni dhahirisho wazi kwamba Wizara ya Maji imeshindwa kusimamia huduma ya maji. Suluhisho, kwa hivyo, ni kubinafsisha huduma ya maji. Tunao mfano ambao tumeuona leo. Hivi sasa, tunazungumzia ubinafsishaji wa huduma tofauti tofauti. Tumeanza na ubinafsishaji wa huduma ya simu. Leo tunafurahia kuona kuwa kila mtu ana chombo cha simu mkononi mwake. Kila mtu anafurahia huduma za simu zilizoko sasa. Hii imetokana na ubinafsishaji wa mawasiliano katika upande wa simu. Ni wazi kwa hivyo kwamba ikiwa kutatokea ubinafsishaji wa huduma ya maji watu wako tayari kushiriki katika sekta hiyo.

Ni jambo la kushangaza sana kuona kwamba kule Malindi, sehemu inayotoa maji ya Baricho Water Works katika Lango Baya Location, ambayo hutumika katika Mji wa Malindi na hata Pwani Kaskazini, ni kavu na wakulima hawana maji vijijini mwao. Ukifuata bomba lile ambalo linapeleka maji Mombasa na Malindi, utaona kwamba watu ambao wanaishi vijijini katika sehemu linakopitia, ambao ni wakulima, ni maskini na hawana maji. Vile vibanda vya maji ambavyo waliwekewa wakati bomba la maji lilipowekwa ili kuwawezesha watu kupata maji kwa bei nafuu vimefungwa. Hii ilikuwa ni kuambatana na nia ya Serikali yetu ya kuwapa watu wote maji kufikia mwaka wa 2000. Leo tunaona kwamba vibanda vyote vya maji vimefungwa. Hii ni kwa sababu watu hawawezi kugharamia maji. Mkulima hawezi kunufaika na maji. Utasikitika kuona kwamba bomba la maji linapitia sehemu fulani na watu ambao wanaishi kando kando mwa bomba hilo wanachota maji ya mvua barabarani na wanayatumia kupikia na kunywa. Jambo hili linadhihirisha kwamba Wizara ya Maji imeshindwa kutoa huduma za maji kwa wananchi.

Kwa hivyo, watu ambao wanajaribu kuchimba masilanga ya kwa sababu maji yamekuwa ghali wanahitajika kuwekewa sheria tofauti. Kuna haja ya kurekebisha sheria ya maji ili watu waweze kupata maji ya kutumia. Tungependa iwe rahisi kwa watu binafsi, shirika la watu binafsi, ama shirika lingine lolote la kutoa maji kutoka kwa mito, maziwa na kadhalika. Yafaa maji yatumiwe vizuri kwa sababu utumiaji wa maji sio kitu rahisi. Shirika la maji limefanya maji kuwa ghali sana.

Bw. Naibu Spika wa Muda, moja kati ya mambo ambayo yanashughulikiwa na Coast Development Authority ni kuhakikisha kwamba wakazi wa Pwani wanapata maji. Halmashauri hiyo imetayarisha miradi kadhaa ya maji ili kuwafurahisha tu wakazi wa Pwani. Masikitiko ni kwamba kunarundikwa pendekezo au project papers nyingi za miradi za Halmashauri ya Ustawi wa Pwani tu, lakini hakuna usaidizi wala mpango wa maji ambao umefanywa. Kuna mipango kama Mwache na Mzima Springs II ambayo inasimamiwa na Halmashauri ya Ustawi wa Pwani. Halmashauri hiyo imetoa mipangilio hata imeweza kuwatambua wale wafadhili ambao wako tayari kuiendesha miradi hiyo miwili kwa njia ya kusaidia jamii au kwa njia ya kibiashara. Mipango kama hiyo sio kama ile nilivyotangulia kusema awali ambayo italeta ushindani baina ya National Water Corporation, Pipeline Board na lile shirika lingine la kibinafsi ambalo litaruhusiwa kusimamia mipango ya maji. Kama mipango hiyo italeta mashindano ya kibiashara, hilo jambo litaleta manufaa kwa watu.

Bw. Naibu Spika wa Muda, yafaa Wizara ya Ustawi wa Maji izingatie tatizo hili sana. Ikiwa tunazungumzia mambo ya kuondosha umaskini, ni vizuri tukumbuke kwamba miradi ya zero-grazing ambayo imefadhiliwa na Heifer Project International, inawashinda wakulima kwa sababu hawana maji ua hawawezi kugharamia maji! Tukiangalia mambo kuhusu miradi midogo ya kunyunyizia maji mashambani, watu

wanashindwa na miradi hiyo kwa sababu maji ni ghali sana. Wakulima wa mifugo wanashindwa kugharamia maji. Hata watumiaji wa maji mijini wanashindwa kulipa gharama hiyo. Ninavyoongea hivi sasa, kuna memorandam ambayo imeandikwa na watumiaji wa maji nyumbani kutoka Malindi. Watumiaji maji hao wanasema kwamba gharama ya maji imefika kiwango ambacho kinaathiri hali ya maisha ya watu wengine. Hayo yote yanachangia katika kuleta umaskini zaidi na kuwaletea shida watu wa maisha ya chini.

Bw. Naibu Spika wa Muda, kuna haja ya kuupatia ufadhili unaotolewa na serikali za nje nafasi ya kugharamia miradi ya maji. Sasa hivi kuna mpango wa GTZ ambao Serikali ya Ujeremani na Shirika lingine la Benki ya Ujeremani zinafadhili mradi muhimu sana huko Malindi. Lakini, vile mradi huo unavyogharamiwa hivi sasa, unasababisha watu katika sehemu fulani ya Malindi, waambiwe wawe tayari kuondoka ili watoe nafasi ya kupitishia mfereji na pia ya kujenga bomba la maji. Kwa hivyo, utaona kwamba miradi ikija, badala ya kusaidia watu na kuwanufaisha, inaleta matatizo. Hii ni kwa sababu tunakuwa na mawazo mazito ambayo yanalenga pahali pamoja tu. Wafadhili hawako tayari kufikiria matatizo na shida za watu na hali ya vile wanavyoishi, maisha yao, mapato yao, mila na desturi zao na kuangalia kwamba jambo lile ni nafuu. Yafaa waanzishe miradi ambayo inakusudiwa kuwaletea manufaa bila kuharibu utaratibu wao na njia zao za maisha mengine na kuleta umaskini.

Bw. Naibu Spika wa Muda, ni jambo la kusikitisha kwamba wakati ambao Wizara ya Ustawi wa Maji inazingatia mambo ya kupata maji, haizingatii hasara inayoletwa na maji. Rangi ya maji ya Malindi pale baharini ina uchafu mwingi ambao unaosababishwa na mmomonyoko wa udongo--- Nafikiri kama tungekuwa na idara ambayo ingeshughulikia jambo kama hilo, yafaa liwe ni shirika linalosimamia mambo ya maji. Kazi ya shirika hili itakuwa ni kuwapelekea watu maji ili waweze kunywa maji safi na kupunguza hasara zinazosababishwa na maji. Hayo yote yataweza kuangaliwa vizuri zaidi kulingana na lengo la Hoja hii. Yafaa utoaji, usambazaji na uuzaji wa maji usiachiwe shirika moja pekee. Haifai mpango huu ufuatiliwe kwa utaratibu na kasumba ya kiserikali ambao iko katika ustawi wa maji.

Bw. Naibu Spika wa Muda, ninaunga mkona Hoja hii.

(Question proposed)

Mr. M.A. Galgalo: On a point of order, Mr. Deputy Speaker, Sir. This is a very important Motion touching on the lives of the people of Kenya. Is it fair for the Ministry of Water Development not to be represented in this House, when we are debating this Motion?

The Temporary Deputy Speaker (Mr. Kihoro): Mr. M.A. Galgalo, we subscribe to the principle of collective responsibility and the Government is represented.

Mr. Mwenje: Thank you, Mr. Temporary Deputy Speaker, Sir. After all, since the Minister for Finance is in the House, we believe money will be availed for the Mzima Springs II.

Although the Minister for Finance is busy, we would like him to hear what we are saying about this Motion because the Minister for Water Development is not here. We expect the Minister for Finance to avail money so that this pipeline can be constructed. Now that he is here, we believe that the whole Government is represented.

Mr. Temporary Deputy Speaker, Sir, whenever I see mineral water here, I always ask myself a question. Why do we have mineral water for sale if two or three years ago we could not see this kind of water? The only reason why we have water being sold in this manner is because water in this country is not treated well. If water was being treated well, the amount of money that wananchi are using to buy water will be saved. Today, when you go to a hotel they expect you to buy water that they are selling. They do not provide water for free of charge these days. For how long are we going to continue buying water when we should be providing clean water in this country?

Mr. Temporary Deputy Speaker, Sir, selling water is a very good business that one can do. When I was working with the Nairobi City Council, I knew that the only department that had enough money was the Department of Water. This is because it could collect so much money. I even remember that the World Bank had spelt out very clearly that money collected from the sale of water should never be tampered with. It was kept for future development. But today, what is happening is that even money accruing from the sale of water is actually used to pay salaries. It is actually misused by the local authorities. Why are we allowing this? I think we should go back to the system where the World Bank had said that money collected from the sale of water should never be used unless for the expansion of a new project of bringing more water. This is because we are playing with the future generations. When we spend money which, otherwise, could have been used to expand water projects, then what are we telling the new generation? We are telling them that they can do without water. We should follow the example set by the World Bank that money collected from the sale of water should never be touched. It should be kept for future water projects.

If Mombasa was keeping money from the sale of water, they would be able to develop Mzima Springs II without even having to refer to the Treasury or even without borrowing. That is why I support the Mover of the Motion that we should privatise Mzima Springs II so that the money will be saved even for the future generations. What is happening today is that Mombasa Municipal Council cannot and does not even have the money to construct Mzima Springs II because the money has been used either to pay salaries or to do those kind of things. If we privatise water, whoever will be handling the money will keep it and its expenditure will be monitored by the Government so that it can be used for development. I avoid taking water whenever I visit Mombasa unless I buy mineral water. This is because even the water which is drawn from boreholes is salty. For those of us who are used to taking water supplied here in Nairobi, we do not like water which is supplied in Mombasa because it is somehow salty. Maybe, those people who live there do not realise this because they are used to it. But for us who go to Mombasa, we find it tasting salty. This water is not pure. Even the water that is obtained from the Mzima Springs I is not pure; it is still salty. We require a private company that will supply clean water to Mombasa. This person should have the water treated properly, unlike the fellows who have been campaigning here in the City to be awarded a tender to supply sub-standard chlorine. The Chair will recall that a Question on this issue was asked in this House. The water in Mombasa should be treated properly so that people can use it. The aspect of relying on Keringet water is subjecting the people who live at the Coast Province to unnecessary expenses of buying water. Go to a hotel in Mombasa, and you will find that nobody will give you drinking water because it is bought.

I would like to say that water is now more expensive than petrol or beer. I would like to inform this House that one bottle of mineral water costs Kshs100, while a bottle of beer costs Kshs50. So, water is now more expensive than beer and soda. Sometime people prefer to drink soda to water because it is cheaper. It is not right to subject our people to this kind of situation. That is the reason why Mr. Mwakiringo's Motion, which is seeking the establishment of a second water project, which will be privatised and supply the Coast people with water is very important.

Mr. Temporary Deputy Speaker, Sir, without taking much time, I would like to say that when we talk of water here in Nairobi, a lot of it flows into Nairobi River, but there are so many people who pollute this river. If you cross this river on foot, by the time you reach the other side, you will have to go to hospital. This water is polluted with so many chemicals. This vice should stop immediately. I do not know where the Minister for Environment and the Minister for Public Health are. These Ministers are here and know this, but do nothing about the situation. It is as if the Government does not exist because so many bad things are happening. The best thing they can do is just simply say that they are looking for Mr. Mwenje so that people can know that there is a Government in place. But when we require services from the Government we do not get them. You will only find people who want to look for others for nothing. This is the case when the people who are being sought have prevented a crime. These people know very well that any citizen of this country can prevent a crime. That is what one is supposed to do. In fact, one should be taken to court if he does not prevent a crime. We prevented bribery from taking place in a by-election. If people do not curb pollution of a river which is in the City, how can one say that there is an effective Government in this country?

Lastly, I would like to talk about rain water. I would like to point out that a lot of this water is being wasted. We are experiencing rains at the moment, but we cannot even harvest rain water. Why is it that we cannot have big tanks so that rain water can subsidise the water we get from Mzima Springs, Thika and other places? This is a failure on the part of the current Government. Rain water should be harvested for future use. One needs not treat this water because it is clean and is treated by God. This water is ready for drinking once it is put in a tank. Why have we ignored rain water in this country? We should harvest rain water now even if it means storing it in dams or big tanks. We should spend our money on this area.

Water is more important than petrol. We spend so much money transporting petrol from Coast Province to the other parts of the country. We spent billions of shillings laying down a pipeline from Mombasa to Eldoret. Why have we not done the same thing to water? It is more important if we did this to water, which will be used by the common man than petrol which is used by the rich class who use vehicles. Because I would like to give my friends a chance to speak, I would like to end my contribution by saying that I support this Motion. Privatization of Mzima Springs II should be done immediately. This project should be awarded to a proper contractor. I would like to inform this House that the people who live in Coast Province and us, who visit the province, require clean water.

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

The Temporary Deputy Speaker (Mr. Kihoro): Mr. Mwenje, you cannot be sure which way it will go!

The Assistant Minister for Transport and Communications (Mr. Keah): Thank you, Mr. Temporary Deputy Speaker, Sir. This Motion calls for privatisation of construction of Mzima Springs II. The reason is that

this project has been on the drawing board for the last 15 years. No work has been done for the last 15 years.

Personally, this project affects me directly in my political career. Every term I have come to serve in this Parliament, I have been telling my people that Mzima Springs II project will be completed. When it is completed, people of Tangazini Location will get water. This has been a song. So, I have been turned into an hon. Member who does not talk the truth. I promised water because I was under the impression that Mzima Springs II would come into effect.

Mr. Temporary Deputy Speaker, Sir, I totally support this Motion. If it calls for the privatisation of the construction of Mzima Spring II. For the last ten years, we have been told that negotiations have been going on between the World Bank and our Government, but nothing has come to fruition. It is more than time we went on a bill to operate and transfer basis or what is commonly known as "BOT" basis of construction. I am glad the Minister for Finance is here, I would urge him to see to it that a policy is immediately discussed, debated and approved, so that we can go into a BOT basis which is what is called for in this Motion. I, therefore, totally support this Motion because it will, at least, ensure Mzima Springs II comes to effect within a year or two, rather than waiting for further 15 years.

The effects of the shortage of water from Mzima Springs I, which is really old and has outlived its usefulness, are disastrous. Hon. Mwakiringo has mentioned some of them. I want to emphasise that these effects have really created poverty in the Coast Province, particularly in Kaloleni Constituency. It has affected the entire development process. It has affected schools, for example, St. John's Girls Boarding School which is served by Mzima Springs I. Girls in St. John's Girls Boarding School in Kaloleni have to walk a long distance to fetch water on their heads. This is really pathetic at this time and age. Not just St. John's Girls Boarding School, but there is also St. Luke's Hospital, Kaloleni, which also suffers from lack of water supply from time to time simply because Mzima Spring II is not providing sufficient water.

In addition to this, tourism industry at the Coast Province is also suffering because of water rationing in Mombasa; the cradle of tourism. What are we talking about? I totally support this Motion and call upon the Minister for Water Development and the Minister for Finance to liaise, so that this project is brought into effect immediately.

In addition to this, Mr. Temporary Deputy Speaker, Sir, I want also to support the fact that we should construct dams all along. Water from Taita hills and upper part of the Coast Province drains into Indian Ocean. Even Mzima Springs II will need support from dams and other water pans. The Ministry should, in fact, find sufficient funds to ensure that water is trapped and is stored, so that this country can be turned into proper agricultural land, particularly the Coast Province. This aspect will create more employment. We are talking about poverty alleviation and agriculture.

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

ADJOURNMENT

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

The House rose at 12.30 p.m.